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Executive Orders

EXECUTIVE ORDER BJ 13-13

Executive Branch—Early Childhood Advisory Council

WHEREAS, early childhood programs have the potential to change children’s lives in significant and lasting ways;

WHEREAS, improving child outcomes should be the ultimate goal of publicly-funded early childhood programs;

WHEREAS, families, the fundamental unit of our society, should have access to high quality options and have information to make the best choices for our children;

WHEREAS, supporting early childhood professionals to improve will lead to positive child outcomes;

WHEREAS, an Early Childhood Advisory Council (ECAC) is an important mechanism necessary to build, maintain, and strengthen a comprehensive, outcomes-based, integrated early childhood system that ensures all children enter Kindergarten prepared for success;

WHEREAS, an ECAC advises the state on the creation, maintenance and strength of such a system focused on Kindergarten readiness;

WHEREAS, it is in the best interest of the citizens of the state of Louisiana to continue implementation of this centralized and coordinated effort through the ECAC created under the Children’s Cabinet; and

NOW THEREFORE, I, Bobby Jindal, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Children’s Cabinet, located in the Office of the Governor, shall create an Early Childhood Advisory Council.

SECTION 2: The Executive Director of the Children’s Cabinet shall serve as the State Director of the Early Childhood Advisory Council (hereafter “Council”).

SECTION 3: In accordance with federal law, the Council shall consist of (13) members as follows:

A. A representative of the state agency responsible for child care;

B. A representative of the Department of Education, early childhood programs;

C. A representative of local education agencies;

D. A representative of institutions of higher education;

E. A representative of local providers of early childhood education and development services;

F. A representative of the Head Start Association;

G. The State Director of Head Start Collaboration;

H. A representative of Louisiana EarlySteps;

I. A representative of the Department of Health and Hospitals, Office of Behavioral Health;

J. A representative of the Department of Health and Hospitals, Office of Public Health;

K. A representative of the Department of Children and Family Services;

L. A representative of the Office of the Governor; and

M. A parent representative.

SECTION 4: The members of the Council shall be appointed by the Governor and serve at the pleasure of the Governor. All members shall serve without compensation. The Chair of the Council shall be selected by the Governor.

SECTION 5: Executive Order No. BJ 2011-11 is hereby terminated, effective September 1, 2013.

SECTION 6: In addition to any other responsibilities designated by the Governor or approved by the Children’s Cabinet, the Council shall:

A. Make recommendations to the Children’s Cabinet, through the executive director, regarding the development of a high-quality, comprehensive early childhood system that enables children from birth through age five and their families to access opportunities for optimal physical, emotional, social, and cognitive development so that children enter school Kindergarten ready.

B. Conduct a periodic statewide assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-Kindergarten services for low-income children in the state.

C. Identify opportunities for, and barriers to, collaboration and coordination among federally-funded and state-funded early childhood care and education programs and services, including collaboration and coordination among State agencies responsible for administering such programs.

D. Make recommendations to the Children’s Cabinet to support the implementation of the Early Childhood Care and Education Network regarding the following:

1. Increasing the participation of children in existing federal, state, and local child care and early childhood education programs, including outreach to underrepresented and special populations;

2. Establishment of a unified data collection system for public early childhood education and development programs and services throughout the State;

3. Statewide professional development and career advancement plans for early childhood educators; and

4. Improvements in state early learning standards.

E. Assess the capacity and effectiveness of 2-year and 4-year public and private institutions of higher education in the State toward supporting the development of early childhood educators.

F. Serve as an Advisory Council on other early childhood matters as requested.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any other political subdivision thereof, are authorized and directed to cooperate with the Council and Children’s Cabinet in implementing and maintaining the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of September, 2013.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1309#104

EXECUTIVE ORDER BJ 13-14

Emergency Procedures for Response to Camp Minden Emergency

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency/disaster was declared through Proclamation No. 129 BJ 2013; and

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: For procurement and contracting, strict compliance with R.S. 39:1481, et seq., and R.S. 39:1551, et seq., shall not be required. However, all State agencies should comply with the following conditions:

A. An appointed official within the agency, or the equivalent for elected officials in higher education, must determine that the failure to strictly comply with the statutory restriction is necessary due to the emergency;

B. A centralized point of contact for each agency must monitor all transactions conducted without strict statutory compliance, maintaining copies of all documentation. Documentation should specify whether the purchase falls into the "emergency" or "permanent" category and whether the purchase relates to the emergency conditions detailed in Proclamation 129 BJ 2013, and all documentation must be maintained and available for audit purposes;

C. Written competitive quotes and/or offers must be obtained whenever possible, and agencies must take the necessary steps to assess that fair and equitable pricing is being offered;

D. Performance-based contracting should be used where practical;

E. State wide contracts should be used where practical;

F. To the maximum extent possible, such emergency contracts should be only for the duration of the emergency or to allow the agency time to comply with normal competitive bidding requirements if the goods or services will be required for an extended period of time;

G. Copies of contracts which would otherwise require approval by the Office of Contractual Review or the Office of State Purchasing and the supporting documentation discussed above must be provided to these agencies within 30 days or sooner, if practical. Additionally, ISIS agencies should enter small purchases into the AGPS/CFMS database as soon as practical. The Office of Contractual Review or the Office of State Purchasing shall review the contracts and documentation to determine compliance with this Executive Order; and

H. Payments to contractors should be made only after verification that all goods and services meet contract requirements.

SECTION 2: The Inspector General is directed and authorized to monitor those transactions conducted outside the scope of regulatory statutes, orders, rules and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and, if any inappropriate transactions are noted, those situations shall be reported directly to the Governor.

SECTION 3: All cabinet members, statewide elected officials and department heads are authorized to transfer the directions, job assignments, personnel, and functions of their departments for the purpose of performing or facilitating emergency services as necessary.

SECTION 4: All available resources of state government should be utilized as reasonably necessary to cope with this emergency.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 6th day of September, 2013.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1309#099

EXECUTIVE ORDER BJ 13-15

In Memoriam

WHEREAS, every year, on September 11th, the people of Louisiana recognize and honor all those who lost their lives on September 11, 2001, as well as the heroic men and women who sacrificed their lives through civilian and military service in connection with related ongoing overseas combat operations;

WHEREAS, since September 11, 2001, the people of Louisiana have lost many brave men and women in these combat operations and more are currently risking their lives daily in defense of our freedom;

WHEREAS, September 11, 2013, marks the twelve year anniversary of the tragic events that occurred on September 11, 2001, and provides a special opportunity for remembering their patriotic commitment to the democratic principles of freedom and equality;

WHEREAS, these service members represent all branches of the armed forces, the Marines, Army, Air Force, Navy, Coast Guard, National Guard and Reserves;

WHEREAS, these courageous and ambitious Louisianians loved their country and the military and devoted their lives to serving their state and country;

WHEREAS, all tragically lost their lives giving their last full measure of devotion in defense of our beloved country and the freedoms that we as Americans hold dear;

WHEREAS, the memory of these dedicated men and women will live on in the hearts of their family, friends, and fellow service members forever.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Louisiana's fallen civilian and service members who lost their lives on September 11, 2001, and the days since to defend this country, as well as those who continue to proudly serve, the flags of the United States and the State of Louisiana shall be flown at half staff over the State Capitol and all public buildings and institutions of the State of Louisiana from sunrise September 11, 2013, until sunset September 11, 2013.

SECTION 2: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of September, 2013.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1309#100

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
and
Department of Children and Family Services
Office of the Secretary**

Community and Family Support System
Flexible Family Fund (LAC 48:I.Chapter 161)

The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amend §16103, §16105, §16107, §16109, §16111, §16113 and §16115 of Part I concerning the Community and Family Support System Flexible Family Fund as authorized by R.S. 28:821 and as directed by House Bill 1 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the cash subsidy program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amended the provisions governing the Community and Family Support System Flexible Family Fund by introducing a universal screening protocol for all children with identified qualifying exceptionalities for severity of functional limitations and changed terminology for qualifying exceptionalities to reflect current usage. The Rule also changed the name of the program from cash subsidy to flexible family fund. (*Louisiana Register*, Volume 37, Number 9).

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals promulgated an Emergency Rule which amended the provisions governing the Flexible Family Fund to enact financial eligibility criteria for children receiving a home and community-based services waiver (*Louisiana Register*, Volume 38, Number 9). This Emergency Rule is being

promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit.

Effective October 1, 2013, the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amends the provisions governing the eligibility determination for the flexible family fund to enact financial eligibility criteria for children receiving a home and community-based services waiver.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System Chapter 161. Community and Family Support System - Flexible Family Fund

§16103. Definitions

* * *

Family—the basic family unit consists of one or more adults and children, if any, related by blood, marriage, adoption, and residence in the same household.

Family Income—money or its equivalent in exchange for labor or services, from the sale of goods or property, or as profit from financial investments, benefits, entitlement, and any income that is not from working or from whatever source of gross income, which means all income from whatever source derived including (but not be limited to) the following:

1. interest;
2. rents;
3. royalties;
4. dividends;
5. alimony and separate maintenance payments;
6. annuities;
7. income from life insurance and endowment contracts;
8. pensions; and
9. income from an interest in an estate or trust.

* * *

Proof of Family Income—documentation of income, which for the flexible family fund, is a copy of the most recent tax return and all schedule attachments for each family member.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

§16105. Application Process

A. - B. ...

C. For the application to be complete, the documentation listed in §16103 of this rule, which identifies a qualifying exceptionality and proof of family income for families

whose children receive a home and community-based services waiver, must accompany the application for the flexible family fund, and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the flexible family fund shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality, to determine financial eligibility for families whose children receive waiver services, to determine that the child is appropriately served by the agency and to ensure that applications are routed to the appropriate agency. When family income exceeds 650 percent of the federal poverty level and the child is a home and community-based services waiver recipient, the child will be ineligible for participation in the flexible family fund.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

§16107. Determining Children Eligible for the Flexible Family Fund

A. - F. ...

G. Children who receive a home and community-based services waiver and whose family income is at or less than 650 percent of the federal poverty level are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

§16109. Children Ineligible for the Flexible Family Fund

A. - A.2. ...

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired; and

4. children receiving a home and community-based services waiver and whose family income exceeds 650 percent of the federal poverty level.

E. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

§16111. Eligibility Determination

A. - D. ...

E. There shall be financial eligibility criteria for the flexible family fund for recipients of a home and community-based services waiver.

1. DHH will determine if recipients of a home and community-based services waiver meet the financial eligibility requirements for the flexible family fund.

2. Recipients of a home and community-based services waiver whose family income exceeds 650 percent of the federal poverty level will be excluded from the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

§16113. Payment Guidelines

A. - C. ...

D. The family of recipients of a home and community-based services waiver is required to report to OCDD accurate and current family income. If a flexible family fund recipient becomes certified for a home and community-based services waiver, the family is required to report this change in status to OCDD and submit proof of family income. Documentation must be received by OCDD within 30 days of the change in income or home and community-based services waiver recipient status.

E. If it is discovered that the family of the recipient of a home and community-based services waiver sent in inaccurate family income eligibility documentation or that the family did not update OCDD with changes in income, and the recipient no longer meets the financial eligibility requirements as defined in §16111 of this rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility. If it is discovered that the family of the flexible family fund recipient did not update OCDD of certification of home and community-based services and the recipient did not meet the family financial eligibility requirements §16111 of this rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

§16115. Terminations

A. - A.6. ...

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the agency administering the flexible family fund and the requirement to provide required documentation, including proof of income for families of children receiving a home and community-based services waiver;

8. child's exceptionality or degree of severity no longer meets eligibility criteria;

9. child attains age 18 years;

10. responsible care giver fails to maintain the child in an approved educational program; or

11. income for the family of the child receiving a home and community-based services waiver exceeds 650 percent of the federal poverty level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), LR 39:

Interested persons may submit written comments to Laura Brackin, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at OCDD state office and Human Services Authorities and Districts.

Kathy H. Kliebert
Secretary

1309#025

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
TOPS Tuition (LAC 28:IV.301)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and repromulgate the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797.D(2)].

This rulemaking clarifies the definition of *tuition* to ensure that the TOPS award amount will be equal to the published tuition for full-time enrollment in an undergraduate program of study at a Louisiana public college or university.

This Declaration of Emergency is effective August 12, 2013, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG14149E)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education**

Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Tuition—

a. through the fall semester or term and winter quarter of the 2010-2011 award year, the fee charged each student by a post-secondary institution to cover the student's

share of the cost of instruction, including all other mandatory enrollment fees charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

- i. which were in effect as of January 1, 1998;
- ii. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and
- iii. for programs with alternative scheduling formats that are approved in writing by the Board of Regents after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:

(a) up to the equivalent of eight full time semesters of postsecondary education in full time semesters for the TOPS Opportunity, Performance and Honors Award; or

(b) up to the equivalent of two years of postsecondary education in full time semesters and summer sessions for the TOPS Tech Award;

b. beginning with the spring semester, quarter or term of the 2010-2011 award year:

- i. the tuition and mandatory fees authorized in Subparagraph a above; or
- ii. the tuition amount published by the postsecondary institution, whichever is greater;

c. beginning with the fall semester, quarter or term of the 2013-2014 award year, the tuition amount published by the postsecondary institution, approved by its system board and accepted by the Board of Regents as part of its budget approval process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 39:

George Badge Eldredge
General Counsel

1309#004

DECLARATION OF EMERGENCY

Office of the Governor Motor Vehicle Commission

General Provisions
(LAC 46:V.101, 1307, 1309, 1707, and 1901)

The Louisiana Motor Vehicle Commission (the “commission”) hereby rescinds the July 15, 2013 Emergency Rule that implemented the provisions of R.S. 32:1252(1) which amended the definition of an all-terrain vehicle and codified the commission’s policy of requiring a manufacturer’s certificate of origin in its licensing process, VIN number, and the form and content of the certificate of origin. It set forth requirements for a manufacturer’s display consistent with the current commission policy. It made clear the executive director’s authority to approve the number of vehicles allowed in a motor vehicle manufacturer’s display. This Emergency Rule was adopted on July 15, 2013 and published in the August 20, 2013 edition of the *Louisiana Register*. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Louisiana Motor Vehicle Commission promulgated an Emergency Rule to make clear the provisions of the statutes adopted by the legislature and the customary procedures of the commission (*Louisiana Register, Volume 39 No. 01*).

Upon further consideration, the commission has now determined that it is necessary to rescind the July 15, 2013 Emergency Rule.

Effective September 9, 2013, the Louisiana Motor Vehicle Commission rescinds the Emergency Rule which appeared in the August 20, 2013 edition of the *Louisiana Register* on pages 2144-2145.

Interested persons may submit written comments to Lessie A. House, Executive Director, Louisiana Motor Vehicle Commission, 3519 Twelfth Street, Metairie, LA 70002.

Lessie A. House
Executive Director

1309#027

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health

Behavioral Health Services
Physician Reimbursement Methodology
(LAC 50:XXXIII.1701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amends LAC 50:XXXIII.1701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program, called the Louisiana Behavioral Health Partnership (LBHP), to provide adequate coordination and delivery of behavioral health services through the utilization of a statewide management organization (*Louisiana Register, Volume 38, Number 2*).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing the reimbursement of physician services rendered in the LBHP in order to establish a distinct payment methodology that is independent of the payment methodology established for physicians in the Professional Services Program (*Louisiana Register, Volume 39, Number 4*). The department now proposes to amend the provisions governing the reimbursement methodology for certain physician services provided under the LBHP to exclude these services from the January 2013 Medicare rate changes.

This action is being taken to protect the public health and welfare of Medicaid recipients who rely on behavioral health services by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2013-2014.

Effective September 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing the reimbursement methodology for certain behavioral health services rendered in the Medicaid Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 2. General Provisions

Chapter 17. Behavioral Health Services Reimbursements

§1701. Physician Payment Methodology

A. - B. Reserved.

C. Effective for dates of service on or after September 1, 2013, the reimbursement for procedure codes 90791, 90792, 90832, 90834 and 90837 shall be excluded from the January 2013 Medicare rate changes and shall remain at the Medicaid fee schedule on file as of December 31, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is

responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#017

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments
(LAC 50.V.2501, 2701, 2705 and 2707)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2501, 2701, 2705, and 2707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule which amended the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register*, Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the June 29, 2010 Emergency Rule to revise the provisions governing DSH payments to allow for additional

payments after completion of the Centers for Medicare and Medicaid Services' mandated independent audit for the state fiscal year (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective October 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - B.3. ...

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. After completion of a Center for Medicare and Medicaid Services' (CMS) mandated independent audit for the state fiscal year, additional payments may occur subject to the conditions specified in §2701 B.1, §2705.D.2, and §2707.B. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

B.5. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), amended LR 36:512 (March 2010), LR 39:

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. ...

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later

than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 11 of the 2010 Regular Session of the Louisiana Legislature, and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications. Adjustments to the certification amounts shall be made in accordance with the final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. Private, non-rural community hospitals (other than freestanding psychiatric hospitals) shall be reimbursed as follows:

1. If the hospital's qualifying uninsured cost is less than 4 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 4 percent of total hospital cost, but less than 7 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 7 percent of total hospital cost, but less than or equal to 10 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 10 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 10 percent of total hospital cost and 80 percent of an amount equal to 5 percent of total hospital cost.

5. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's cost-to-charge ratio as required by the CMS DHS audit rule for the applicable cost report period.

D. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2009 through June 30, 2010.

D.1. - D.5. Repealed.

E. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in C.1 - C.5 above shall be reallocated to these qualifying hospitals based on their reported uninsured costs. The \$10,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2011 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, \$1,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and \$1,000,000 shall be allocated to freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 4 percent of total hospital cost and:

a. be a public or private non-rural community hospital, as defined in §2701.A. that has a Medicaid enrolled distinct part psychiatric unit; or

b. enrolled in Medicaid as a freestanding psychiatric hospital that pursuant to 42 CFR 441.151 is accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

2. Payment shall be calculated by:

a. Dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric unit's uninsured days and multiplying by \$1,000,000.

b. Dividing each qualifying freestanding psychiatric hospital's uninsured days by the sum of all qualifying freestanding psychiatric hospital's uninsured days and multiplying by \$1,000,000.

H. The DSH payment shall be made as an annual lump sum payment.

I. Hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008 and subsequent years may also qualify in the federally mandated statutory hospital category.

J. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2705. Small Rural Hospitals

A. - D.1.b. ...

2. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from small rural hospitals based on these reported audit results. If the small rural hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all small rural hospitals.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2707. Public State-Operated Hospitals

A. ...

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment shall be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#067

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Disproportionate Share Hospital Payments
Community Hospitals (LAC 50.V.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50.V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH)

payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to non-rural community hospitals in order to eliminate the community hospital psychiatric DSH pool (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-rural community hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. - J. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#068

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and**

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice—Money Follows the Person Rebalancing
Demonstration Extension (LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.11107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S.

49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9).

The allocation of opportunities for the Money Follows the Person Rebalancing Demonstration Program was scheduled to end September 30, 2011. Section 2403 of the Affordable Care Act of 2010 authorized an extension of the Money Follows the Person Rebalancing Demonstration Program until September 30, 2016. The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to allow allocation of waiver opportunities until September 30, 2016 (*Louisiana Register*, Volume 37, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2011 Emergency Rule. This action is being taken to secure enhanced federal funding.

Effective September 25, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the allocation of opportunities in the Children's Choice Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions§11107. Allocation of Waiver Opportunities

A. - B. ...

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2016.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2016, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2016, the opportunity will cease to exist.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Reduction
(LAC 50:V.953, 955 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V. 953,955, and 967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 37, Number 7).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 38, Number 8).

Due to a continuing budgetary shortfall in SFY 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This

action is being taken to avoid a budget deficit in the medical assistance programs.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - R. ...

S. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to acute care hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November, 2010), LR 37:2161 (July 2011), LR 39:

§955. Long Term Hospitals

A. - I. ...

J. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to long term hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:

§967. Children's Specialty Hospitals

A. - J. ...

K. Effective for dates of service on or after February 1, 2013, the per diem rates as calculated per §967.A.-C above shall be reduced by 1 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 84.67 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Small Rural Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.1125)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1125 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*Louisiana Register*, Volume 35, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to small rural hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective October 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the

provisions governing the reimbursement methodology for inpatient hospital services rendered by small rural hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 11. Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§1125. Small Rural Hospitals

A. - D. ...

E. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments shall be issued to qualifying non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:955 (May 2009), amended LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#071

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Outpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5315, §5515, §5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals for state fiscal year 2013 (*Louisiana Register*, Volume 39, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 7). The department has now determined that it is necessary to amend the provisions of the July 1, 2013 Emergency Rule in order to further revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the Code of Federal Regulation citation. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective September 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state public hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5315. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment

amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a Medicare Metropolitan Statistical Area (MSA) per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5515. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5717. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2868 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5915. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6117. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state

public acute care hospital must be designated as a non-teaching hospital by the department and must:

- a. be located in a MSA per 42 CFR 413.231(b)(1);
- b. provide inpatient obstetrical and neonatal intensive care unit services; and
- c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
and Children's Specialty Hospitals
Reimbursement Rate Reduction
(LAC 50:V.5313, 5317, 5513, 5517,
5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act,

R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 37, Number 11).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 38, Number 8).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Taking the proposed rate reductions into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective October 01, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 39:

§5317. Children’s Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children’s specialty hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 39:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 39:

§5517. Children’s Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children’s specialty hospitals for outpatient hospital clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 39:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 39:

§5719. Children’s Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children’s specialty hospitals for outpatient clinical diagnostic laboratory

services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 39:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be at 66.46 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 39:

§6119. Children’s Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement fees paid to children’s specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be 82.13 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services
Dental Services
Program Termination
(LAC 50:XV.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:XV.Chapter 161 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 11). Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7).

Due to a continuing budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which repealed the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate these services (*Louisiana Register*, Volume 39, Number 1). Dental services provided in the Pregnant Women Extended Services Program were an optional covered service under the Medicaid State Plan. This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate the program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16101. Recipient Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 30:2834 (December 2004), LR 39:

§16103. Provider Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), LR 39:

§16105. Covered Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 34:442 (March 2008), LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 39:

§16107. Reimbursement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 36:2044 (September 2010), LR 37:3270 (November 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#073

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Immunizations
Reimbursement Methodology
(LAC 50:IX.8305 and 8505)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.8305 and §8505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) adopted provisions to establish Medicaid payment of uncompensated care costs for the administration of vaccines rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services, including the administration of specified immunizations (if they were covered), at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Medicaid payments to providers for the administration of certain vaccines to children to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). The provisions governing an increase in rates for the administration of certain vaccines to adults were inadvertently omitted from the January 1, 2013 Emergency Rule. The department promulgated an Emergency Rule which amended the January 1, 2013 Emergency Rule in order to incorporate provisions governing an increase in rates for the administration of certain vaccines to adults and to revise the payment methodology (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective October 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the administration of immunizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations

§8305. Reimbursement Methodology

A. - C.3.a. ...

D. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration services shall be reimbursed at payment rates consistent with the methodologies that apply to such services

and physicians under Part B of Title XVIII of the Social Security Act (Medicare) and the Vaccines for Children (VFC) Program.

1. The following vaccine service codes, when covered by the Medicaid Program and provided under the VFC Program, shall be reimbursed at an increased rate:

a. 90471, 90472, 90473 and 90474; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For vaccine administration services provided under the Vaccines for Children Program in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Regional Maximum Administration Fee; or

b. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405 as approved by the Centers for Medicare and Medicaid Services.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 85. Adult Immunizations

§8505. Reimbursement Methodology

A. - B.3.a. ...

C. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare).

1. The following vaccine service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

- a. 90471, 90472, 90473 and 90474; or
- b. their successor codes as specified by the U.S.

Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

- a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

- b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For vaccine administration services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

- a. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405 as approved by the Centers for Medicare and Medicaid Services; or

- b. provider's actual billed charges for the service.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Physicians Services
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise the payment methodology and to correct the formatting of these provisions as a result of the promulgation of the October 20, 2012 Emergency Rule governing the reimbursement methodology for physician services (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective October 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services covered in the Professional Services Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services
§15113. Reimbursement Methodology

A. - I.3. ...

J. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain physician services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare).

1. The following physician service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

a. evaluation and management codes 99201 through 99499; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by or under the personal supervision of a physician, either a doctor of osteopathy or a medical doctor, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and who also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist in family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For primary care services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare Part B fee schedule rate in calendar years 2013 or 2014 that is applicable to the place of service and reflects the mean value over all parishes (counties) of the rate for each of the specified codes or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405. If there is no applicable rate established by Medicare, the reimbursement shall be the rate specified in a fee schedule established and announced by the Centers for Medicare and Medicaid Services (CMS); or

b. provider's actual billed charge for the service.

4. The department shall make payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

K. - K.1. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#075

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
Supplemental Payments
(LAC 50:IX.15151 and 15153)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts §15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 36, Number 6). In addition, this Emergency Rule also repromulgated the provisions of the June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*.

The department determined that the Emergency Rule to redeclare these provisions was inadvertently omitted from the October 2012 submission to the Office of State Register for publication in the *Louisiana Register*. Therefore, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to assure compliance with the technical requirements of R.S. 49:953, and to re-instate the provisions of the July 1, 2010 Emergency Rule governing the Professional Services Program and supplemental payments for physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 39, Number 2). The Centers for Medicare and Medicaid

Services (CMS) has already approved the corresponding amendment to the Medicaid State Plan which governs these supplemental payments. This Emergency Rule is being promulgated to continue the provisions of the February 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program to ensure recipient access to services.

Effective October 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services rendered by physicians and other professional service practitioners.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. Qualifying Criteria – State Owned or Operated Professional Services Practices

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the State of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:
 - a. has been designated by the bureau as an essential provider; and
 - b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and
2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the

maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§15153. Qualifying Criteria – Non-State Owned or Operated Professional Services Practices

A. Effective for dates of service on or after February 20, 2013, physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana; and
2. enrolled as a Louisiana Medicaid provider.

B. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

C. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH.

D. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this

Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#076

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Targeted Case Management—HIV Coverage Termination (LAC 50:XV.10505, 10701 and Chapter 119)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10505, §10701 and repeals Chapter 119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) amended the provisions governing the reimbursement of targeted case management (TCM) services rendered by the Office of Public Health in the Nurse Family Partnership Program in order to establish Medicaid payment of uncompensated care costs for services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing targeted case management in order to terminate the coverage and Medicaid reimbursement of TCM services rendered to HIV disabled individuals (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management in order to terminate the coverage of services rendered to HIV disabled individuals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10505. Staff Education and Experience

A. - D.2. ...

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the Bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

- a. ...
- b. New Opportunities Waiver;
- c. Elderly and Disabled Adult Waiver;
- d. Targeted EPSDT; and
- e. Children’s Choice Waiver.
- f. Repealed.

2. - 2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 107. Reimbursement

§10701. Reimbursement

A. - H.3.a. ...

1. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for case management services rendered to HIV disabled individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 119. HIV Disabled

§11901. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11903. Recipient Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11905. Provider Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#078

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Targeted Case Management—Nurse Family Partnership
Program Termination
(LAC 50:XV.10505, 10701 and Chapter 111)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10505, §10701 and repeals Chapter 111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) amended the provisions governing the reimbursement of targeted case management (TCM) services rendered by the Office of Public Health in the Nurse Family Partnership Program in order to establish Medicaid payment of uncompensated care costs for services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health

Services Financing promulgated an Emergency Rule which amended the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program and Medicaid reimbursement of TCM services to first-time mothers (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10505. Staff Education and Experience

A. ...

B. Case Managers. All case managers must meet one of the following minimum education and experience qualifications:

1. - 3.a. ...

b. Repealed.

4. ...

C. Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements:

C.1. - E.2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 107. Reimbursement

§10701. Reimbursement

A. - I. ...

J. Effective for dates of service on or after February 1, 2013, the department shall terminate the Nurse Family Partnership Program and Medicaid reimbursement of targeted case management services to first-time mothers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1041 (May 2004),

amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11103. Recipient Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1037 (June 2008), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11105. Staff Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2796 (December 2000), repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#079

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Targeted Case Management
Reimbursement Rate Reduction
(LAC 50:XV.10701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by House Bill 1 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) promulgated an Emergency Rule which adopted provisions to establish Medicaid payment of uncompensated care costs for TCM services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 38, Number 7). The provisions of the July 1, 2012 Emergency Rule were promulgated as a final Rule in January 20, 2013 (*Louisiana Register*, Volume 39, Number 1).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7).

Due to a continuing budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program and TCM services rendered to HIV disabled individuals (*Louisiana Register*, Volume 39, Number 1). The department subsequently promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule in order to revise these provisions as a result of the TCM service terminations (*Louisiana Register*, Volume 39, Number 2). The department has now determined that it is necessary to amend the provisions of the February 20, 2013 Emergency Rule in order to further revise the formatting to ensure that these provisions are appropriately promulgated in the *Louisiana Administrative Code*. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective September 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends provisions of the February 20, 2013 Emergency Rule governing the reimbursement methodology for targeted case management services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - F.1. ...

G. Effective for dates of service on or after July 1, 2012, the reimbursement for case management services provided to the following targeted populations shall be reduced by 1.5 percent of the rates on file as of June 30, 2012:

1. participants in the Early and Periodic Screening, Diagnosis, and Treatment Program; and
2. individuals with developmental disabilities who participate in the New Opportunities Waiver.

H. - H.3.a. ...

I. - J. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), amended LR 36:1783

(August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Developmental Disabilities Services System (LAC 48:IX.334)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) adopts LAC Title 48:IX.334 as directed by House Bill 1 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 417 of the 2013 Regular Session of the Louisiana Legislature provides for authority for the department to establish a statewide system of payments; to make provisions relative to payment for services; to allow for uses of funds for provision of certain services; and provides for authority to establish a schedule of fees for services provided to certain recipients in EarlySteps, Louisiana's Early Intervention Program for Infants and Toddlers with Disabilities and their Families.

Due to a budgetary shortfall in state fiscal year 2014, the department has determined that it is necessary to add these provisions governing the payment for some EarlySteps services. This action is being taken to avoid a budget deficit in the Office for Citizens with Developmental Disabilities. It is estimated that implementation of this Emergency Rule will increase revenue by approximately \$1,200,000 for state fiscal year 2013-2014.

Effective October 1, 2013, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities establishes a system of payments for some services provided through the EarlySteps Program.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Developmental Disabilities Services

Chapter 3. Infant Intervention Services

§334. System of payments

A. The department shall have the authority to establish a statewide system of payments in accordance with 34 CFR Part 303.

B. In Implementing the System of Payments

1. The department establishes a schedule of monthly cost participation for early intervention services per qualifying family. Cost participation shall be based on a sliding scale.

2. Application of the family's cost share using the sliding scale will include the family's adjusted gross income, family size, financial hardship, extraordinary expenses associated with the eligible child, and Medicaid eligibility.

a. Extraordinary expenses may include but are not limited to unreimbursed medical expenses, equipment, home modifications, or other costs associated with the child with a disability.

b. Extraordinary expenses must have been incurred during the calendar year that the family's cost share for Individualized Family Services Plan (IFSP) services is applied.

c. The family will be required to produce invoices, receipts, or other documents which establish the costs and payment for these expenses.

d. The family may request a reassessment of their costs based on extraordinary expenses at any time if there are significant changes affecting the determination of the cost participation amount. The request will be in writing and submitted to the service coordinator.

e. The request for reassessment will be considered by the designated EarlySteps office for a determination of the family's request. The family and the service coordinator will receive the department's written response.

3. The sliding scale shall utilize the most recent federal poverty guidelines issued in the Federal Register by the United States Department of Health and Human Services as the basis for determining the income threshold based on family size for eligibility for cost participation.

4. The department shall not assess any fee or other charge through the cost participation schedule upon a family which has an annual income of less than three hundred percent of the federal poverty level.

5. The department shall not assess fees or other charges through the cost participation schedule which totals more than three percent of the monthly income level for a family of four, according to the federal poverty guideline schedule which will be updated annually.

6. Once the family's income has been verified with the required documentation and the IFSP services have been determined by the IFSP team, the following will occur:

a. The system point of entry office will issue the cost participation statement to notify the family of their assessed costs which will be reviewed with the family and a copy provided.

b. Following the submission of service claims by the child's provider, the Central Finance Office (CFO) will mail a monthly explanation of payment statement (EOP) to

the family for payment. The EOP will include a notice of the family's right for reconsideration of their financial status and their right to apply for exemption from cost participation due to financial hardship.

c. Families will remit reimbursement to the CFO at the address provided in the EOP.

7. When a family is not complying with the cost participation requirements and procedures for suspending services, the following will occur related to the status of the child's services:

a. A notice will be issued to the family, to the service coordinator and to the designated EarlySteps office.

b. The CFO will notify the department when the family is in arrears for a duration of three months at which time the service coordinator will discuss the family's options with the family and assist the department with its determination of the status of the child's IFSP services.

c. If the family provides its consent, a copy of the notice that the family is in arrears with payment for three months will be sent to the representative and senator in whose district the family resides.

d. The department will make a written determination regarding the status of the child's IFSP services following review of information provided by the service coordinator and the family. Families will be offered the option to continue to receive services available at no cost if they choose according to the No-Cost Provisions which follow.

e. The department shall not limit early intervention services for a child in any month if the cost for the services in that month exceeds the maximum contribution from the child's family.

C. Parents who have public insurance (Medicaid) and elect not to assign such right of recovery or indemnification to the department or choose not to release financial information will be assessed the cost for each early intervention service listed on the IFSP according to the most current Service Rate Schedule and the Cost Participation Schedule.

D. No-Cost Provision. The following services that a child is otherwise entitled to receive will have no costs assessed to the parents:

1. child find activities,
2. evaluation and assessment for eligibility and IFSP planning,
3. service coordination, administrative and coordinative activities related to the development review, and evaluation of the IFSP, and
4. implementation of procedural safeguards and other components of the statewide system related to §464 of Act 417.

E. The department will provide written, prior notification to families for use of Medicaid according to the requirements of 34 CFR 303.414. This notice includes a statement that there are no costs charged by the department for use of the eligible child's Medicaid. The notification also includes a statement of the process for resolutions of disputes regarding decisions related to use of Medicaid,

failure to pay for services and/or the State's determination of a family's ability to pay.

F. Dispute Resolution Process

1. The procedures used by the department to resolve such disputes will not delay or deny the parents' rights or the child's ability to access timely services.

2. The dispute resolution process can be initiated by the parent according to OCDD's policy for handling system complaints when the parent wishes to contest the imposition of a fee or the department's determination of the parents' ability to pay.

G. Parental Consent. The department will obtain parental consent prior to the use of the child's Medicaid according to the following:

1. EarlySteps will obtain written consent for the use of the child's Medicaid using its established consent for services form;

2. parental consent will be obtained prior to the initial provision of an early intervention service in the IFSP;

3. parental consent will be obtained when an increase in frequency, length, duration, or intensity of a service is determined in the child's IFSP;

4. if the parent does not provide consent for the use of the child's Medicaid, the department will make available only those early intervention services on the IFSP for which the parent has provided consent;

5. parents may withdraw consent for use of their child's Medicaid at any time.

H. Determination of Family Cost. Families are liable for the costs of services that their child receives while enrolled in EarlySteps as follows.

1. The aggregate contributions made by the parent shall not exceed the aggregate cost of the early intervention services received by the child and family (factoring in any amount received from other sources for payment for that service).

2. At least annually, or at any time the department determines that a reassessment of the parent's financial circumstances is warranted, the department shall conduct such reassessment of financial status.

3. The parent has the right to request a reassessment at any time if there are significant changes affecting the determination of the cost participation amount.

4. Families who have the ability to pay and choose not to pay may be determined as ineligible to continue to receive services until payment is made.

5. The inability of the family of the eligible infant or toddler will not result in a delay or denial of services if the family does not meet the cost participation income requirements or for services for which there are no costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 39:

Interested persons may submit written comments to Laura Brackin, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this

Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at OCDD state office and human services authorities/districts.

Kathy H. Kliebert
Secretary

1309#024

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Rehabilitation Clinics

Termination of Coverage for Recipients 21 and Older (LAC 50:XI.103 and 301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.103 and §301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing the covered services and reimbursement paid to rehabilitation clinics in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation clinics in order to terminate the coverage and Medicaid reimbursement of services rendered to recipients 21 years of age and older (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rehabilitation clinic services rendered to recipients 21 years of age and older in order to terminate coverage of these services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 1. Rehabilitation Clinics

Chapter 1. General Provisions

§103. Services

A. ...

B. Effective for dates of service on or after February 1, 2013, the department terminates the coverage of all rehabilitation services to recipients 21 years of age and older.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:13 (January 1983), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 3. Reimbursement

§301. Rehabilitation (Ages 3 and Older)

A. - B. ...

C. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:109 (February 1996), amended LR 23:731 (June 1997), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1309#077

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Disciplinary Procedures for Adult Offenders (LAC 22:I.Chapter 3)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the amendment of an existing department regulation, B-05-001, *Disciplinary Rules and Procedures for Adult Offenders*, is necessary and that for the following reasons, failure to adopt the Rule on an emergency basis will result in a violation of the Prison Rape Elimination

Act (PREA) of 2003 and part 115 of title 28 of the *Code of Federal Regulations*. Failure to adopt the rule on an emergency basis will violate the federal law and the Department of Justice implementation rules, effective May 17, 2013, requiring all states to be in compliance with the 50 PREA standards by August 20, 2013. One of the standards requires the change in the definitions of the disciplinary rule regarding sex offenses, aggravated, to comply with the PREA standards. Therefore, the department is required, pursuant to the enactment of these laws and rules, to take certain affirmative acts such as promulgating the instant regulation.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of department regulation number B-05-001, *Disciplinary Rules and Procedures for Adult Offenders*, is necessary and hereby provides notice of its Declaration of Emergency effective on August 20, 2013 in accordance with R.S. 49:953. The Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter B. Disciplinary Rules and Procedures for Adult Offenders

§341. Disciplinary Rules and Procedures for Adult Offenders

Editor's Note: This Section contains rules formerly printed in LAC 22:1.341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, and 363.

A. Purpose—to constitute the department's *Disciplinary Rules and Procedures for Adult Offenders* as a regulation.

B. Applicability—deputy secretary, chief of operations, regional wardens, wardens, director of probation and parole, director of prison enterprises, sheriffs and administrators of local jail facilities and transitional work programs. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that all offenders and employees have reasonable access to and comply with the department's *Disciplinary Rules and Procedures for Adult Offenders*. They are established to help provide structure and organization for the prisons and a framework within which the offender population can expect the disciplinary system to function.

1. Revisions will be accomplished through this regulation under the signature of the secretary.

D. *Disciplinary Rules and Procedures for Adult Offenders*

1. This book of disciplinary rules and procedures constitutes clear and proper notice of same for each offender sentenced to the Department of Public Safety and Corrections.

2. It is the policy of the Louisiana Department of Public Safety and Corrections to operate a swift and fair disciplinary process that follows constitutional and statutory standards. The *Disciplinary Rules and Procedures for Adult*

Offenders establishes a uniform offender disciplinary process that:

- a. maintains order and control of institutional safety;
- b. ensures offenders are disciplined fairly;
- c. ensures constitutional rights are protected;
- d. modifies offender behavior in a positive manner;

and

e. maintains an official record of an offender's disciplinary history.

3. The *Disciplinary Rules and Procedures for Adult Offenders* provide structure and organization for the prisons and a framework within which the offender population can expect the disciplinary system to function. All offenders sentenced to the custody of the Department of Public Safety and Corrections, regardless of their housing facility, shall be placed on notice as to the requirements of the *Disciplinary Rules and Procedures for Adult Offenders* by being provided with a copy of the rulebook. All offenders shall be required to sign for the receipt of the rulebook and the signed receipt shall be filed in the offender's master record.

4. The secretary of the Department of Public Safety and Corrections has sole authority to change these rules, regulations and procedures. Utilization of these procedures does not constitute the granting of any enforceable right or privilege to any offender.

5. There are certain classifications or other actions which may be taken that affect an offender's custody status, job classification, housing assignment, institutional assignment and/or ability to participate in institutional programs or activities for which an offender may expect change during the course of his incarceration. Such changes may result from classification decision-making, the imposition of disciplinary penalties or to promote legitimate institutional goals and/or security. Such changes may not be disciplinary penalties in and of themselves. These and any similar changes which result from the action of other department regulations and institutional policies are not considered penalties in the context of the disciplinary process.

6. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those offenders who were subjected to loss of good time or failure to earn incentive wages.

E. Definitions

Classification—a process for determining the needs and requirements of those for whom confinement has been ordered and for assigning offenders to housing units, work assignments and programs according to their needs and existing resources. *Classification* actions, even if resulting from an incident handled in the disciplinary process, are not disciplinary sanctions.

Confidential Informant—person whose identity is not revealed to the accused offender but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

Custody Levels—see established policy and procedures for information regarding the various *custody levels* and status review procedures.

Extra Duty—work to be performed in addition to an offender's regular job assignment as specified by the proper institutional authority. This work is performed without the benefit of incentive wages.

Incentive Pay—compensation paid to an offender in the physical custody of the department and who is eligible to receive incentive wages and who has performed satisfactory work in the compensation grade in which he has been classified.

Posted Policy—policy memoranda detailing what behavior is required or forbidden of offenders and generally reflecting the individual needs of the facility. *Posted policies* must be distributed and posted in such a manner that offenders are placed on notice as to what behavior is required or forbidden and that sanctions may be imposed should the policy be violated.

Prison Rape Elimination Act of 2003 (PREA)—a federal law enacted to establish a zero-tolerance standard for the incidence of sexual assault within an institutional setting.

Sanction—a disciplinary penalty.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders. Additionally *employee*, as used herein, refers not only to an employee of the Department of Public Safety and Corrections, but also to any individual having the authority to exercise supervision over an offender.

F. Disciplinary Procedures

1. This rulebook contains the disciplinary rules and procedures for offenders remanded to the state's custody. All offenders are required to obey the rules and regulations. The following outlines the procedures that shall be followed when an offender violates a rule.

a. General Procedures

i. Reporting Infractions

(a). When an employee witnesses or has knowledge of any act by an offender that is in violation of the rules and/or posted policies, the employee shall first attempt, if appropriate, to resolve the matter informally. If the violation is observed or brought to the attention of a contract employee, volunteer or institutional visitor, the incident shall be reported to an employee by the person observing or with knowledge of the behavior. Informal resolution may include counseling, verbal reprimand, or the giving of an instruction, warning, or order. Informal resolution is not appropriate for any offense that poses a risk to the security of the institution (such as solicitation of staff to violate a rule or policy, an attempt to establish an inappropriate relationship or possession of contraband).

(i). If the incident cannot or may not be resolved informally, the employee shall complete a disciplinary report formally charging the offender with violating a rule.

(ii). The report shall be written by the employee who has reason to believe that an offender has violated, attempted to violate or conspired to violate one or more disciplinary rules.

[a]. An offender who intentionally attempts to violate a disciplinary rule, even if he is unsuccessful, may receive a disciplinary report for attempting to break that rule.

[b]. When two or more persons working in combination for the specific purpose of violating any

disciplinary rule may receive a disciplinary report for conspiring to break that rule.

[c]. The description of an incident may include more than one separate and distinct rule violation. It is appropriate to include more than one rule violation on a single disciplinary report.

(iii). The disciplinary report shall include the following information:

[a]. [i]. the accused offender's name, DOC number, housing and job assignment;

[ii]. the reporting officer's name and title;

[iii]. the offense number;

[iv]. the date and time of the offense; and

[v]. a description of the facts of the offense;

[b]. the description of the facts of the offense shall include the name(s) of all the witnesses, the location of the incident and a full statement of the facts underlying the charges;

[c]. a description of any unusual offender behavior, any physical evidence and its disposition, and any immediate action taken, including the use of force.

(b). Upon completion of the disciplinary report, the supervisor shall review the information and forward the report and any supporting documentation to the disciplinary office or designated depository for processing.

(c). If an offender's continued presence in the general population poses a threat to life, property, self, staff or other offenders, or to the security or orderly operation of the institution, or who is the subject of an investigation, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred or the shift supervisor) be placed in administrative segregation until his appearance before the disciplinary officer/disciplinary board or classification board.

(d). In instances when an offender is placed in administrative segregation for disciplinary purposes, the supervisor will ensure the documentation is complete and correct and, as needed, investigate to confirm the reasonableness of the allegation or circumstances prompting the assignment. This shall be done prior to the conclusion of the supervisor's tour of duty.

ii. Notice of Disciplinary Report

(a). Offenders shall be served (usually by a correctional officer) with notice of charges at least 24 hours prior to the hearing.

(b). The charges shall be explained to the offender in terms the offender can understand.

(c). Confirmation that the offender was advised of the charges shall be noted on the original of the disciplinary report by evidence of the offender's signature.

(d). If the offender refuses to sign the disciplinary report, the delivering officer shall note the refusal in the offender signature block and initial the box.

b. Counsel and Counsel Substitutes

i. Counsel is an attorney-at-law of the offender's choice who has been retained by the offender.

ii. Counsel substitutes are persons not admitted to the practice of law, but offenders who aid and assist, without

cost or fee, an accused offender in the preparation and presentation of his defense and/or appeal.

iii. Counsel substitutes are only those offenders appointed by the warden or designee to assist other offenders with their legal claims, including but not limited to, assistance with filing of administrative remedy procedure requests, disciplinary board appeals and lost property claims. They may be removed from their positions if the warden or designee believes it appropriate.

iv. An offender may request the assistance of counsel or a counsel substitute at any stage of the disciplinary proceeding.

G. Disciplinary Hearings and Sanctions

1. Hearing Procedure

a. Hearings are designed to provide a fair and impartial review conducted by a disciplinary officer or disciplinary board to determine if a rule infraction(s) occurred, if the charged offender is guilty or not guilty of the charge(s) and, if guilty, the appropriate sanction(s).

b. An investigation report may be submitted to the disciplinary board detailing the facts uncovered in an investigation. If the investigation report is used as evidence in the hearing, a copy of the report must be maintained in the administrative record. In the alternative, the investigator may be called as a witness to present testimony.

2. Disciplinary Officer (Low Court Hearing)

a. A hearing conducted by a ranking security officer (lieutenant or above) or any supervisory level employee from administration or treatment appointed by the warden or designee who conducts hearings of minor violations (Schedule A) and who may impose only designated sanctions.

b. Any disciplinary officer directly involved in the incident or one who is biased for or against the accused cannot hear the case unless the accused waives recusal in writing. (Performance of a routine administrative duty does not necessarily constitute direct involvement or bias.)

c. At these hearings, the accused offender represents himself and is given full opportunity to speak in his own behalf.

d. Counsel substitutes, witnesses or the accusing employee are not permitted in the hearing.

e. Low court hearings are not recorded.

f. Hearings shall be held within seven days of the date of the report, excluding weekends and holidays, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Reasons for all delays should be documented.

3. Disciplinary Board (High Court Hearing)

a. If the offender will be transferred to a state correctional facility from a local jail facility for the purpose of conducting the hearing, the offender must be brought before the disciplinary board of the local jail facility where the violation(s) occurred and informed of the pending transfer and necessitated delay of the hearing. The date the notice was given to the offender shall be documented on the disciplinary report.

b. A properly composed board will consist of two people, a duly authorized and trained chairman and a duly authorized and trained member, each representing a different discipline (security, administration, or treatment). The

secretary or designee must approve the chairman and the warden or designee must approve the member.

c. 72 Hour Rule

i. Any offender who is placed in administrative segregation for a rule violation must be given a disciplinary hearing within 72 hours of being placed in administrative segregation. If the hearing is prevented from being conducted within 72 hours by exceptional circumstances or unavoidable delays, the offender must be brought before the disciplinary board and told the reason for the delay.

ii. The 72 hour rule does not apply to offenders housed in local jail facilities (including transitional work programs) whose hearings are conducted once they are transferred to a state correctional facility or those who have their disciplinary hearing conducted at a state correctional facility even if they are not transferred there. Offenders in this status have no expectation of a disciplinary hearing within 72 hours, or even seven days.

iii. The 72 hour rule does not apply to those offenders who are placed in administrative segregation for reasons other than for a disciplinary hearing. Examples of these classifications include, but are not limited to:

(a) awaiting transfer to another facility or another housing unit within the facility;

(b) transitional work program or intake, etc.

d. Hearings for those offenders not placed in administrative segregation shall be held within seven days of the date of the report, excluding weekends and holidays, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Reasons for all delays should be documented. Any member directly involved in the incident or one who is biased for or against the accused cannot hear the case unless the accused waives recusal in writing or verbally on the record. (Performance of routine administrative duty does not necessarily constitute direct involvement or bias.)

e. Decisions must be unanimous, with each member participating in the deliberations. If the decision is not unanimous, the case is automatically deferred for referral to a different disciplinary board.

f. If a second decision is not unanimous, then a finding of not guilty is appropriate.

g. The disciplinary board may also hear cases of offenders who have signed written requests for protection and may recommend appropriate action.

4. Conduct of the Hearing—Disciplinary Board (High Court Hearing)

a. Before the hearing can begin, an accused offender must acknowledge that he is familiar with the offender rights during the disciplinary process. (Refer to Subsection J of this Section, Offender Rights and Responsibilities, for additional information.)

b. All rights and procedural requirements must be followed unless waived by the accused.

c. Disciplinary board hearings shall be recorded in their entirety and the recording preserved for five years.

d. An offender who does not choose to be present at the hearing may sign a waiver which shall be read into the record. A counsel substitute shall represent him and enter a not guilty plea. The same applies to a disruptive offender

who refuses to cooperate. If the offender refuses to sign a waiver, one shall be prepared and the refusal noted by two witnesses. In either case, the disciplinary chairman shall also sign the waiver.

e. The accused enters his name and DOC number into the record as does his counsel or counsel substitute (if any) and confirms that he understands his rights. If the offender indicates he does not know or understand his rights, they must be explained to him.

f. The chairman reads the disciplinary report to the accused and asks for a plea. Available pleas are "not guilty" or "guilty." Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the chairman will enter a "not guilty" plea for him and proceed with the hearing.

g. Preliminary motions must be raised at the first opportunity or be considered waived and may include:

i. dismissal of the charge(s);

ii. continuance (Offenders are not entitled to a continuance to secure counsel unless they are charged with a violation that is also a crime under state law. Only one continuance will be granted unless new information is produced.);

iii. requests to face accuser and call witnesses, etc.;

iv. a motion due to lack of 24-hour notice, including any challenge to the waiver of the 24-hour notice rule having not been made in writing;

v. request for investigation;

vi. any other appropriate motions.

h. All motions must be made at the same time in the proceedings. Subsequent verbal motions will be denied as having been waived.

i. The board shall deliberate and rule on motions at the time the motion is made, unless expressly deferred to the actual hearing.

j. A summary of motions presented will be documented with written reasons for each ruling made on the disciplinary court motions.

k. After entering his plea and motions, if any, the accused may present his defense.

l. The board may ask questions of the accused, his witnesses and/or his accuser. During the hearing, the accuser should only be present to testify. He shall never be present during deliberations.

m. The disciplinary board shall carefully evaluate all evidence presented or stipulated.

n. In situations where the disciplinary report is based on a single confidential informant, there must be other evidence to corroborate the violation. That evidence may include, but is not limited to, testimony from another confidential informant, the record (investigative report) or other evidence. Whenever information is provided by confidential informants, the informant must be certified as having provided reliable information in the past (and have legitimate knowledge of the present incident(s)). If requested, the accusing employee must be summoned to testify about the reliability and credibility of the confidential informant(s) when the disciplinary report is based solely on information from confidential informants.

i. All confidential information used in the disciplinary process shall be documented on the confidential informant testimony and certification form.

o. The board will review the information presented during the deliberations.

i. During deliberations, everyone except the board and any official observers must leave the room, and the board will decide the case on the basis of the evidence presented at the hearing.

ii. Official observers must not take part in the hearing or the deliberations.

iii. The disciplinary record of the accused may be examined to discover a pattern of similar misbehavior or to determine if a pending suspended sanction exists.

iv. The disciplinary record may be used to determine the appropriate sanction(s) to be imposed.

v. Both members of the board must verbally discuss and render their verdict(s).

vi. The audio recording will continue throughout the deliberations.

p. Following the deliberations, the chairman will announce the verdict.

q. If the verdict is guilty, the chairman will then announce the sanction(s).

r. It must be clearly articulated which sanction applies to each specific rule violation for which the offender was found guilty.

s. The board has full authority to suspend any sanction imposed for a period of up to 90 days.

5. Correcting Disciplinary Reports

a. A reviewing employee may change the rule violation number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule violation number(s) may be added if the offense is clearly described on the report.

b. Before the hearing begins, the board may change the rule number to match the description of the alleged misbehavior, if necessary, and may also change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number that determines the offense.

c. The continuance may be waived and does not necessarily need to be for 24 hours.

NOTE: This information shall be voiced on the recorder for the record.

6. Sanctions

a. Sanctions must fit the offense and the offender. An offender with a poor conduct record may receive a more severe sanction than an offender with a good conduct record for the same offense. Even so, serious offenses call for serious penalties.

b. An offender who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation.

c. After a finding of guilt for a new violation, a previously suspended sanction may be imposed as well as a new sanction.

d. State and federal criminal laws apply to offenders. In addition to being sanctioned by prison

authorities, offenders may also be prosecuted in state and federal court for criminal conduct.

e. Restitution may be imposed in accordance with established policies and procedures and is not considered a disciplinary sanction and may be assessed in addition to any other permissible penalties.

f. An offender who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an offender who has been convicted of three major violations or a total of five violations in a six month period. Major violations are Schedule B offenses. A habitual offender may receive Schedule B penalties following a finding of guilt of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

g. After a finding of guilt, the disciplinary officer may impose one or two of the penalties for each violation.

H. Appeals

1. A request for review of a disciplinary decision must follow these procedures.

a. Appeals to the Disciplinary Board

i. An offender may appeal a case heard by the disciplinary officer (low court) only to the disciplinary board (high court).

ii. As soon as the ruling is issued, the offender who wants to appeal must clearly say so to the disciplinary officer who will then automatically suspend the sanction and schedule the case for the disciplinary board.

iii. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board. The disciplinary board cannot increase the sanction imposed by the disciplinary officer.

iv. The appeal to the disciplinary board will be the final appeal in a case heard by the disciplinary officer. No other appeals are allowed. The appeal from the disciplinary officer to the disciplinary board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the disciplinary officer and appealed to the disciplinary board may not be appealed to the warden or to the secretary.

b. Appeals to the Warden

i. An offender may appeal a case heard by the disciplinary board (high court). All appeal requests on high court cases shall be to the warden.

ii. The offender may appeal himself or through counsel or counsel substitute. In any case, the appeal must be received within 15 calendar days of the hearing.

iii. The appeal should be clearly written or typed on the appeal from the disciplinary board form. This form is available from the offender's classification officer. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form.

iv. The warden will decide all appeals within 30 calendar days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly).

v. Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary for the offender to only provide basic factual information regarding his case. Lengthy appeals will be returned to the offender for summarization. The offender will have five calendar days

from receipt to comply with the instructions and resubmit. It is important to remember that abuse of the system impairs the department's ability to respond to legitimate problems in a timely fashion.

c. Appeals to the Secretary

i. An offender may appeal the decision of the warden to the secretary and must indicate that he is "not satisfied" in the appropriate box on the appeal decision form. The document should then be submitted to the disciplinary office or designated depository.

ii. The offender must submit the form within five calendar days of the date of the receipt of the warden's decision. No supplement to the appeal will be considered.

iii. It is only necessary that the offender check the box indicating, "I am not satisfied," date, sign and forward the form to the appropriate person.

iv. An offender who does not file an appeal to the warden in a timely manner shall relinquish his right to appeal to the secretary.

v. The offender will receive an acknowledgment of receipt and date forwarded to the secretary's office.

vi. The institution will provide a copy of the offender's original appeal to be attached to the appeal decision form for submission to the secretary. The form is available from the offender's classification officer.

vii. The secretary shall only consider appeals of sanctions from decisions of the warden that resulted in an imposed or suspended sentence of one or more of the following penalties:

- (a). forfeiture of good time;
- (b). a custody change from minimum to medium if it involves transfer to another institution;
- (c). a custody change to maximum;
- (d). failure to earn incentive wages.

viii. In addition, appeals regarding restitution assessments may be submitted to the secretary. The appeal of such assessments must be submitted in accordance with established policy and procedures.

ix. The secretary will decide all appeals within 85 days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly). Absent unusual circumstances, the secretary will only consider review of the sanction(s) imposed of an offender who pled guilty.

I. Offender Rules and Violation Descriptions

Rule No.	Rule Name	Description
An offender found guilty of violating one or more of the rules defined below will be sanctioned according to the penalty schedule designated in the rule and the type of hearing provided.		
1	Contraband (Schedule B)	No offender shall have under his immediate control any illicit drugs, any product that could be used to adulterate a urine sample, unauthorized medication, alcoholic beverage, yeast, tattoo machine, tattoo paraphernalia, syringe any type weapon, cellular phone or component hardware or other electronic communications device, whether operational or not, (including but not limited to beepers, pagers, subscriber identity module (SIM) cards, portable memory chips, batteries for these devices, chargers, global satellite system equipment), or any other item not

Rule No.	Rule Name	Description
		<p>permitted by department regulation or institutional posted policy to be received or possessed or any other item detrimental to the security of the facility. Money is contraband. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility. Possession and/or use of lighted cigarettes or other smoking materials are deemed to be contraband in non-smoking areas. To smuggle or attempt to smuggle prohibited items into or out of the facility will be in violation of this rule.</p> <p>The area of immediate control is an offender's person, his locker(s) or storage area, his cell, his room, his bed, his laundry bag, his hobby craft and his assigned job equipment (such as, but not limited to, his desk, his tool box, or his locker at the job) or the area under his bed on the floor unless the evidence clearly indicated that it belonged to another offender. Contraband found in a common area cell shared by two or more offenders will be presumed to belong to all of them equally.</p> <p>Any offender who is tested and has a positive reading on a urinalysis or breathalyzer test will be considered in violation of this rule. An offender who refuses to be tested or to cooperate in testing, as well as an offender who alters his urine specimen, will also be found in violation of this rule (including being unable to provide a urine specimen within three hours of being ordered to do so).</p> <p>Any sketch, painting, drawing or other pictorial rendering produced in whole or in part by a death row offender, unless authorized by the warden of the institution is also considered in violation of this rule.</p>
2		Rescinded
3	Defiance (Schedule B)	<p>No offender shall commit or threaten physically or verbally to commit bodily harm upon another person. This includes throwing any object, water or any other liquid or substance, feces, urine, blood, saliva or any form of human waste or spitting or attempting to spit on another person.</p> <p>No offender shall curse, insult or threaten another person in any manner. This prohibited conduct includes abusive or insulting conversation, correspondence, phone calls or gestures by an offender. Further, no offender shall obstruct, resist, distract or attempt to elude staff in the performance of their duties. Nor shall an offender intimidate or attempt to intimidate staff to manipulate staff's actions.</p> <p>This rule does not prohibit an offender from advising staff of planned legal redress even during a confrontational situation (although an offender's behavior in such a situation shall not be disrespectful or violate any other disciplinary rule).</p>

Rule No.	Rule Name	Description
4	Disobedience (Schedule A)	Offenders must obey the posted policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules or other general instructions. The only valid defense for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury. (This defense includes incapacity by virtue of a certified medical reason.)
5	Disobedience, Aggravated (Schedule B)	Offenders must obey direct verbal orders cooperatively and promptly and not debate, argue or ignore orders before obeying. The last order received must be obeyed when orders conflict. Even orders the offender believes improper must be obeyed; grievances must be pursued through proper channels. Sanctions imposed by the disciplinary officer or the disciplinary board are to be carried out by the offender. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary board. The only valid defense for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury. (This defense includes incapacity by virtue of a certified medical reason.)
6	Disorderly Conduct (Schedule A)	All boisterous behavior is forbidden. This includes, but is not limited to, horseplay, rowdy and/or unruly conduct, etc. Offenders shall not jump ahead or cut into lines at the canteen, recreational activities, dining/kitchen area or during group movements of offenders. Visitors and guests shall be treated courteously and not be subjected to disorderly or intrusive conduct. Offenders shall not communicate verbally into or out of cellblocks or other housing areas.
7	Disrespect (Schedule A)	Employees, visitors, guests or their families shall not be subject to disrespectful conversation, correspondence, phone calls, actions or gestures. Offenders shall address employees, visitors, guests or their families by proper title or rank or by "Mr.," "Mrs.," or "Miss," whichever is appropriate.
8	Escape or Attempt to Escape (Schedule B)	<p>NOTE: All costs associated with an escape may be recovered in accordance with established policy and procedures.</p> <p>A. Attempted Escape: The attempt to commit a simple or aggravated escape as defined herein.</p> <p>B. Simple Escape: The intentional, unauthorized departure of an offender under circumstances in which human life was not endangered, including but not limited to: from the grounds of an institution, a designated area or place within an institution, the custody of a corrections' employee while off the grounds of an institution or the custody of any law enforcement officer; the departure of a transitional work program offender from the designated area where he is legally confined; the failure of an offender participating in a transitional work program to report or return from his planned employment or other activity at</p>

Rule No.	Rule Name	Description
		<p>the appointed time, or who leaves the job site or any other location where he is approved and expected to be for any reason without permission. This includes leaving without authorization from any penal and correctional facility, community rehabilitation center, transitional work program, hospital, clinic and any and all programs where offenders are legally assigned.</p> <p>C. Aggravated Escape: The intentional, unauthorized departure of an offender under circumstances in which human life was endangered, including but not limited to: from the grounds of an institution, a designated area or place within an institution, the custody of a corrections' employee while off the grounds of an institution or the custody of any law enforcement officer; the departure of a transitional work program offender from the designated area where he is legally confined; the failure of an offender participating in a transitional work program to report or return from his planned employment or other activity at the appointed time, or who leaves the job site or any other location where he is approved and expected to be for any reason without permission. This includes leaving without authorization from any penal and correctional facility, community rehabilitation center, transitional work program, hospital, clinic and any and all programs where offenders are legally assigned. For the purpose of this rule, the commission of a crime while on escape status constitutes aggravated escape.</p>
9	Deleted	Refer to rule no. 30
10	Fighting (Schedule B)	<p>Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking and other such behavior. Contact does not necessarily have to be made for this rule to be violated.</p> <p>Self-Defense Clarification: Self-defense is a complete defense and can be established to the board by one demonstrating that his actions did not exceed those necessary to protect him from injury.</p>
11	Fighting, Aggravated (Schedule B)	<p>Offenders shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or more offenders attack another offender without using weapons, the attackers are in violation of this rule, as are all participants in a group or "gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No offender shall intentionally inflict serious injury or death upon another offender. Contact does not necessarily have to be made for this rule to be violated.</p> <p>Self-Defense Clarification: (Refer to clarification under rule no. 10.)</p>

Rule No.	Rule Name	Description
12	Gambling (Schedule B)	No offender shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No offender shall operate a book-making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed or how much wagered will be considered a violation.
13		Rescinded
14	Intoxication (Schedule B)	No offender shall be under the influence of any intoxicating substance while in physical custody. Evidence of intoxication may include, but is not limited to, redness in eyes, slurred speech, odor of alcohol, elation, unsteady gait, boisterous behavior, being amused for no apparent reason, hysteria, being in a stupor, daze or trance, etc.
15	Malingering (Schedule B)	<p>A. A qualified medical staff person determines that an offender has made repeated and frequent complaints at sick call having little or no clinical significance; or</p> <p>B. A qualified medical staff person (as defined by the institution's designated health authority) determines that an offender has sought emergency medical treatment, not during scheduled sick call, when there was no ailment or when there was a minor ailment that was or could have been properly handled at sick call.</p>
16		Rescinded
17	Property Destruction (Schedule B)	No offender shall destroy the property of others or of the state. No offender shall alter his own property when the result of such alteration is to render the article unsuitable according to property guidelines. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the offender intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.
18	Radio/Tape, CD or Electronic Media Player Abuse (Schedule A)	Radios/tape players, CD players or electronic media players must be used in accordance with the posted policies of the facility. Violations of posted policies regarding radios/tape players, CD players or electronic media players may be processed under this rule. In addition to any sanction that may be imposed by the disciplinary officer/disciplinary board, the ranking employee on duty may confiscate the radio/tape player, CD player or electronic media player for a period of up to 30 days.
19	Self-Mutilation (Schedule B)	No offender shall deliberately inflict or attempt to inflict injury upon himself or upon a consenting offender or consent to have an injury inflicted upon him. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.
20	Deleted	Refer to rule no. 21

Rule No.	Rule Name	Description
21	Sex Offenses, Aggravated (Schedule B)	<p>Nonconsensual and/or consensual sexual acts involving offender-on-offender, offender-on-staff or non-incarcerated person is strictly prohibited. Contact by any offender of any person without the person's consent or of a person who is unable to consent or refuse through coercion is strictly prohibited. (There is no consensual sex in a custodial or supervisory relationship.) The following sexual behaviors are prohibited and the provisions of the Prison Rape Elimination Act shall be followed for all allegations of a violation.</p> <p>A. Nonconsensual Sexual Act (offender-on-offender): Contact between the penis and the vagina and the anus including penetration, however slight; contact between the mouth and the penis, vagina, anus, groin, breast, inner thigh or buttocks; penetration of the anal and/or genital opening of another offender by a hand, finger or other object. No offender shall sexually harass another offender by force or threat of force.</p> <p>B. Abusive Sexual Contact (offender-on-offender): Contact such as, but not limited to, intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, buttocks and/or mouth of any person. No offender shall sexually assault another offender by force or threat of force.</p> <p>C. Sexual Misconduct (offender-on-offender): Contact or attempted contact between the penis and the vagina or the penis and the anus including penetration or attempted penetration, however slight; contact or attempted contact between the mouth and the penis, vagina or anus; penetration or attempted penetration of the anal or genital opening of another offender by a hand, finger or other object; carnal copulation by two or more offenders with each other, or by one or more offenders with an implement or animal(s); two or more offenders who have obviously been interrupted immediately before or after carnal copulation. Use of the genital organs of one of the offenders is sufficient to constitute the offense. Offenders may not participate in any sexual activity with each other.</p> <p>D. Sexual Misconduct (offender-on-staff or non-incarcerated person): Contact or attempted contact between the penis and the vagina or the penis and the anus including penetration or attempted penetration, however slight; contact or attempted contact of the mouth and the penis, vagina or anus; penetration or attempted penetration of the anal or genital opening of another person by a hand, finger or other object; two or more persons who have obviously been interrupted immediately before or after carnal copulation. Offenders may not participate in any sexual activity with staff or non-incarcerated persons.</p> <p>E. Obscenity: No offender shall deliberately expose the genital organs and/or masturbate in view of staff or non-incarcerated persons.</p> <p>F. Other Prohibited Sexual Behavior (offender-on-offender, offender-on-staff or non-incarcerated person): No offender</p>

Rule No.	Rule Name	Description
		<p>shall: make sexual remarks, gestures or sounds; flirt; exchange personal items, etc. or make sexual threats in conversation by correspondence or telephone.</p> <p>G. Overt display of affection in a manner that may elicit sexual arousal with anyone is prohibited.</p> <p>H. There can be no consensual sex between an employee and an offender. Failure to report any improper advances made by an employee on an offender may result in a violation of this rule.</p>
22	Theft (Schedule B)	<p>No offender shall steal from anyone. Forgery, which is a form of theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.)</p> <p>Fraud or the deliberate misrepresentation of fact to secure material return and/or special favors or considerations is also a form of theft.</p> <p>An offender who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation.</p> <p>No offender shall have stolen items under his immediate control. No offender shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs. (Refer to rule no. 1. for the definition of "area of immediate control.")</p>
23		Rescinded
24	Unauthorized Area (Schedule B)	An offender must be in the area in which he is authorized to be at that particular time and date, or he is in an unauthorized area. No offender shall go into any housing unit other than that to which he is assigned (this includes standing in the doorway) unless he has permission.
25	Deleted	Refer to rule no. 22
26	Unsanitary Practices (Schedule A)	Offenders must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Offenders must maintain themselves, their clothing and their shoes in as presentable a condition as possible under prevailing circumstances. Each offender is responsible for keeping his bed

Rule No.	Rule Name	Description
		and bed area reasonably clean, neat and sanitary. Beds will be made according to the approved posted policy at the facility. Offenders must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the kitchen/dining area. Chewing gum in the kitchen/dining area is prohibited.
27	Work Offenses (Schedule A)	Offenders must perform their assigned tasks with reasonable speed and efficiency. Though offenders have specific job assignments, it may be required that they do work other than what their job assignments require. This work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. (A school assignment is considered to be a work assignment for the purposes of this rule.)
28	Work Offenses, Aggravated (Schedule B)	An offender who flatly refuses to work or to go out to work or who asks to go to administrative segregation rather than work is in violation of this rule, as is an offender who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late for work roll call without a valid excuse (such as no duty or callout) is a violation, as is not reporting for extra duty assignment. Being late to work or to school assignment is a violation. (A school assignment is considered to be a work assignment for the purposes of this rule.)
29	Disturbance (Schedule B)	No offender shall create or participate in a disturbance. No offender shall incite any other person to create or participate in a disturbance. A disturbance is defined as two or more offenders involving acts of force or violence toward persons or property or acts of resistance to the lawful authority of correctional officers and/or other law enforcement officers under circumstances which present a threat of injury to persons, to property, or to the security and good order of the institution.
30	General Prohibited Behaviors (Schedule B)	The following behaviors, which may impair or threaten the security or stability of the unit or wellbeing of an employee, visitor, guest, offender or their families are prohibited: A. strong-arming or using threats of violence or perceived harm or reprisal to secure gain or favor for oneself or others; B. directly or indirectly threatening to harm oneself (except obvious suicide attempts); C. threatening, planning, conspiring or attempting to commit a violation of the rules of behavior for adult offenders or state and federal laws; aiding or abetting another offender involved in committing a violation of the rules or state and federal laws; D. engaging in or making an attempt to engage in a non-professional relationship with an employee, visitor, guest, their families or other person the offender may come in contact with while incarcerated; E. trafficking in drugs or alcohol, stolen goods or sexual favors; F. organizing or participating in a scam

Rule No.	Rule Name	Description
		or similar behavior; G. making unsolicited contact or attempted contact with the victims of the offender's criminal activity or any immediate family member of the victim; H. bribing, influencing or coercing anyone to violate institutional policies procedures, rules, or state and federal laws or to attempt to do so; I. giving an employee anything of any value; J. harassing behaviors conducted via telephone, correspondence or during other activities; K. the communication of statements or information known to be malicious, frivolous, false, and/or inflammatory, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, offender or their families may be subject to all Schedule B penalties except for forfeiture of good time and/or loss of incentive wages. (This rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.); L. using telephones, computers and/or office equipment without approval; M. purchasing or trading for offender legal or other services. Performing legal work for another offender or being in possession of another offender's legal work when not assigned as a counsel substitute or when not approved by the warden. (It is a violation for any offender to give or receive anything of value relative to the provision of paralegal services.) An offender may not perform or be in possession of staff legal work; N. communicating or visiting with outsiders when not approved or communicating or visiting with any person after being given instructions not to communicate or visit with that person; O. participating in a loud or boisterous argument or dispute even when a fight does not ensue; P. participant in, organizing or advocating a work stoppage; Q. making or attempting to make credit purchases; R. abusing the administrative remedy procedure; S. belonging to a gang, advocating membership in a gang, or participating in any gang related activities, including any form of gang or group identification or signaling; T. misrepresenting oneself to an employee, visitor, guest or the public; U. starting, causing, assisting in the creation of any fire, heat or spark of any nature by any means or methods, or attempting to start a fire and/or attempting to heat substances utilizing electrical/mechanical devices or any other means, other than in the performance of an approved work assignment; V. failing to cooperate with an investigation; W. any behavior not specifically enumerated herein that may impair or threaten the security or stability of the unit or well-being of an employee, visitor, guest, offender or their families may still be the subject of a disciplinary report and

Rule No.	Rule Name	Description
		all Schedule B penalties except for forfeiture of good time and/or loss of incentive wages; X. establishing and/or maintaining an account, or having an account established and/or maintained on any Internet-based social networking website, as well as accessing an unauthorized internet or intranet website.

J. Offender rights and responsibilities:

1. the right to be given a written copy of the disciplinary report at least 24 hours before the hearing begins which describes the contents of the charges against the offender (unless waived by him in writing);

2. the right to a hearing within 72 hours of placement in administrative segregation;

3. the right to counsel substitute for all alleged violations and the right to outside retained counsel, if the alleged violation is one for which the offender could also be charged in a criminal court, e.g. possession of illegal drugs, rape or aggravated battery, etc.;

4. the right to not be compelled to incriminate himself;

5. the right to present evidence and witnesses on his behalf and to request cross-examination of the accuser provided such request is relevant, not repetitious, not unduly burdensome to the institution and/or not unduly hazardous to staff or offender safety. (The board has the option of stipulating expected testimony from witnesses. In such cases, the record of the hearing shall contain a statement indicating the nature of the stipulated testimony. The board should assign proper weight to such testimony as though the witness had actually appeared.) The accusing employee must be summoned when the report is based solely on information from confidential informants, if such a motion is raised;

6. the right to an unbiased hearing. Any chairman or member directly involved in the incident, who is biased for or against the accused or who is in a therapeutic relationship with the offender that would be jeopardized by the therapist's presence on the disciplinary board, cannot hear the case unless the accused waives recusal in writing or verbally on the record. Performance of a routine administrative duty does not necessarily constitute direct involvement or bias;

7. the right to enter a separate plea to each rule violation for which he is charged;

8. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sanction imposed, when the accused entered a plea of "not guilty" and was found "guilty" by the disciplinary board. (This will usually appear on the finalized report.) The convicted offender shall be given or sent a written summary;

9. the right to appeal the decision consistent with the appropriate appeal procedure.

K. Disciplinary Sanctions

1. After a finding of guilt, the disciplinary officer (low court) or the disciplinary board (high court) may impose one or two of the penalties below for each violation.

2. Suspended Sentences. The disciplinary officer or the disciplinary board may suspend any sanction either imposes for a period of up to 90 days. The period of suspension begins on the date of the issuance of the ruling.

When the time period has expired, the report itself remains a part of the record, although the sanction may no longer be imposed.

a. Penalty Schedule—Low Court

Penalty Schedule—Low Court	Description of Time/Clarifications
Reprimand	N/A
Extra duty	Up to 4 days for each violation
Loss of radio/tape, or CD or electronic media player and/or TV	Up to 2 weeks
Loss of recreation and yard activities	Up to 2 weeks (If the offender is housed in disciplinary detention or disciplinary detention/extended lockdown, the offender must be allowed a 24-hour break with access to recreation and/or yard activities after ten consecutive days in disciplinary detention or disciplinary detention/extended lockdown before any subsequent imposition of this penalty).
Telephone	Up to 2 weeks (When given this penalty, will not include loss of telephone privileges in emergencies or for legal calls).
Movies	Up to 2 weeks
Canteen	Up to 2 weeks
Loss of any similar minor privilege	Up to 2 weeks

b. Penalty Schedule—High Court (Schedule A)

Penalty Schedule (High Court)—Schedule A	Description of Time/Clarifications
Reprimand	N/A
Loss of minor privilege	Up to four weeks
Extra duty	Up to four days for each violation
Disciplinary detention	Up to five days for each violation
Forfeiture of good time	Up to a maximum of 15 days for each violation (An offender is presumed to have earned his good time on the date of sentencing and may forfeit such good time at any point thereafter.)
Quarters change	N/A
Job change	N/A
Confinement to dormitory, room or cell	Up to 14 days (This does not exclude participation in work, meals, medical or other essential call-outs.)
Failure to earn incentive wages	Up to three months (Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the introductory pay level for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.)

c. Penalty Schedule—High Court (Schedule B)

Penalty Schedule (High Court)—Schedule B	Description of Time/Clarifications
Reprimand	N/A
Loss of minor privilege (See penalty schedule—low court)	Up to 12 weeks, unless violation involved abuse of that privilege, then up to 24 weeks
Confinement to dormitory, room or cell	Up to 30 days (This does not exclude participation in work, meals, medical or other essential call-outs.)
Extra duty	Up to eight days for each violation

Penalty Schedule (High Court)—Schedule B	Description of Time/Clarifications
Disciplinary detention	Up to ten days for each violation
Forfeiture of good time (An offender is presumed to have earned his good time on the date of sentencing and may forfeit such good time at any point thereafter.)	Escape (simple or aggravated): Up to a maximum of all good time earned on that portion of the sentence served prior to the escape Attempted escape (simple or aggravated): Up to a maximum of 180 days for each violation Battery of an Officer: Up to 180 days for each violation Physical possession of illegal drugs or a weapon: Up to 180 days for each violation All other Schedule B violations: Up to a maximum of 90 days for each violation
Quarters change	N/A
Job change	N/A
Failure to earn incentive wages	Up to one year Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the introductory pay level for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.
Loss of hobby craft	Up to 12 months This penalty is at the discretion of the warden or designee, based upon the length of the sanction, this penalty may include loss of the hobby craft box assignment--in such cases, the offender would not be eligible to apply for resumption of this privilege until after the sanction has been served. Loss of hobby craft privileges that result from custody status changes, classification actions, housing or institutional assignment changes, other changes that may routinely occur during the course of incarceration or the imposition of other disciplinary penalties are not to be considered as a "loss of hobby craft" sanction in the context of the disciplinary process.
Custody change from minimum to medium custody status	Imposition of this sanction may include transfer to another institution. Any change of quarters, job change or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction.
Custody change from minimum or medium custody status to maximum custody status (working cellblock or disciplinary detention/ extended lockdown)	Imposition of this sanction may include transfer to another institution. Any change of quarters, job change or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction. When expressly indicated as a sanction, review of the assignment

Penalty Schedule (High Court)—Schedule B	Description of Time/Clarifications
	will be in accordance with established policy and procedures.
Loss of visiting privileges	If the violation involves visiting, to be reviewed by the warden or designee every 90 days. (Established policy and procedures govern restrictions relative to non-contact versus contact visiting and is not considered a disciplinary penalty.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:413 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2194 (October 2008), LR 39:

§343. Foreword

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:414 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2194 (October 2008), repealed LR 39:

§345. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:414 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2195 (October 2008), repealed LR 39:

§347. Disciplinary Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:415 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2196 (October 2008), repealed LR 39:

§349. Hearings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:416 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2198 (October 2008), repealed LR 39:

§351. Correcting Disciplinary Reports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:417 (March 2001),

amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), LR 36:2873 (December 2010), repealed LR 39:

§353. Sanctions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:417 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), repealed LR 39:

§355. Penalty Schedule—Disciplinary Report (Heard by Disciplinary Officer/Low Court)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), repealed LR 39:

§357. Penalty Schedule—Disciplinary Report (Heard by Disciplinary Board/High Court)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended LR 28:94 (January 2002), repromulgated LR 28:1797 (August 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), repealed LR 39:

§359. Penalty Clarifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2200 (October 2008), repealed LR 39:

§361. Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2200 (October 2008), repealed LR 39:

§363. Disciplinary Rules

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:2201 (October 2008), repealed LR 39:

James M. LeBlanc
Secretary

1309#010

Rules

RULE

Department of Children and Family Services Child Support Enforcement Section

Support Enforcement Services (LAC 67:III.2305)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Section 2305 in accordance with Act 66 of the 2012 Regular Session of the Louisiana Legislature. Act 66 provides that for the purpose of supplying services for the child support enforcement program, field officers shall be designated by the secretary of the Department of Children and Family Services. This amendment would identify those positions.

Title 67

SOCIAL SERVICES

Part III. Economic Stability and Self-Sufficiency

Subpart 4. Child Support Enforcement

Chapter 23. Single State Agency Organization

Subchapter A. Designation, Authority, Organization and Staffing

§2305. Child Support Enforcement Staff

A. Child support enforcement field officers responsible for supplying services shall be:

1. caseworkers, as defined in 45 CFR §303.20(e)(1);
2. child support enforcement personnel who supervise caseworkers;
3. child support enforcement personnel who supervise child support enforcement district offices; and
4. Department of Children and Family Services personnel who directly supervise at least one child support enforcement district office.

B. Child support enforcement field officers listed in Subsection A shall possess full notarial powers in connection with any document required in the course of providing services to enforce support obligations owed by non custodial parents to their family and children, to locate parents, or to establish paternity and obtain family, child, and medical support orders.

C. It is expressly forbidden for the agent to charge any fee for any oath which he takes or for any authentic act which he passes by virtue of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.1.8(D) and (E).

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:274 (September 1976), amended by the Department of Social Services, Office of Family Support, LR 34:1929 (September 2008), amended by the Department of Children and Family Services, Child Support Enforcement Section, LR 39:2437 (September 2013).

Suzy Sonnier
Secretary

1309#063

RULE

Board of Elementary and Secondary Education

Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children (LAC 28:LXXVII.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed of *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children*. This policy bulletin is being replaced by *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

Title 28

EDUCATION

Part LXXVII. Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children

Chapter 1. General Provisions

§101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2313 (November 2003), amended LR 37:518 (February 2011), repealed LR 39:2437 (September 2013).

§103. Louisiana Content Standards Foundation Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2314 (November 2003), amended LR 37:518 (February 2011), repealed LR 39:2437 (September 2013).

§105. Information Literacy Model for Lifelong Learning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2314 (November 2003), amended LR 37:519 (February 2011), repealed LR 39:2437 (September 2013).

§107. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2315 (November 2003), repealed LR 39:2437 (September 2013).

Chapter 3. Pre-Kindergarten Content Standards

Subchapter A. General

§301. Content Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2316 (November 2003), amended LR 37:519 (February 2011), repealed LR 39:2438 (September 2013).

§303. Developmentally Appropriate Practices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2317 (November 2003), amended LR 37:520 (February 2011), repealed LR 39:2438 (September 2013).

Subchapter B. Approaches to Learning

§305. Rationale

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:520 (February 2011), repealed LR 39:2438 (September 2013).

§307. Guiding Practices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:520 (February 2011), repealed LR 39:2438 (September 2013).

§309. Strategies to Support an Inclusive Learning Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:520 (February 2011), repealed LR 39:2438 (September 2013).

§311. Reasoning and Problem-Solving

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:521 (February 2011), repealed LR 39:2438 (September 2013).

§313. Initiative, Engagement, and Persistence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:522 (February 2011), repealed LR 39:2438 (September 2013).

§315. Curiosity and Eagerness to Learn

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:522 (February 2011), repealed LR 39:2438 (September 2013).

Subchapter C. Mathematics

§317. Mathematical Development

[Formerly §305]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2317 (November 2003), amended LR 37:520 (February 2011), repealed LR 39:2438 (September 2013).

§319. Stages of Math Development

[Formerly §307]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2317 (November 2003), amended LR 37:523 (February 2011), repealed LR 39:2438 (September 2013).

§321. Mathematical Development—Number and Number Relations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:523 (February 2011), repealed LR 39:2438 (September 2013).

§323. Mathematical Development—Measurement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:524 (February 2011), repealed LR 39:2438 (September 2013).

§325. Mathematical Development—Geometry

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:524 (February 2011), repealed LR 39:2438 (September 2013).

§327. Mathematical Development—Data Analysis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:525 (February 2011), repealed LR 39:2438 (September 2013).

§329. Mathematical Development—Patterns and Relationships

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2318 (November 2003), amended LR 37:525 (February 2011), repealed LR 39:2438 (September 2013).

Subchapter C. Science

§331. Scientific Development

[Formerly §311]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2320 (November 2003), amended LR 37:525 (February 2011), repealed LR 39:2439 (September 2013).

§333. Scientific Development—Inquiry

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:526 (February 2011), repealed LR 39:2439 (September 2013).

§335. Scientific Development—Physical Science

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:526 (February 2011), repealed LR 39:2439 (September 2013).

§337. Scientific Development—Life Science

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:527 (February 2011), repealed LR 39:2439 (September 2013).

§339. Scientific Development—Earth Science

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2321 (November 2003), amended LR 37:527 (February 2011), repealed LR 39:2439 (September 2013).

Subchapter D. Social Studies

§341. Social Studies Development

[Formerly §315]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2323 (November 2003), amended LR 37:528 (February 2011), repealed LR 39:2439 (September 2013).

§343. Social Studies Development—Geography

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:528 (February 2011), repealed LR 39:2439 (September 2013).

§345. Social Studies Development—Civics

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:529 (February 2011), repealed LR 39:2439 (September 2013).

§347. Social Studies Development—Economics

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:529 (February 2011), repealed LR 39:2439 (September 2013).

§349. Social Studies Development—History

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:529 (February 2011), repealed LR 39:2439 (September 2013).

Subchapter E. Creative Arts

§351. Creative Arts Development

[Formerly §319]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2325 (November 2003), amended LR 37:529 (February 2011), repealed LR 39:2439 (September 2013).

§353. Stages of Art Development

[Formerly §321]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2325 (November 2003), amended LR 37:530 (February 2011), repealed LR 39:2439 (September 2013).

§355. Creative Arts Development—Music

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:530 (February 2011), repealed LR 39:2439 (September 2013).

§357. Creative Arts Development—Movement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:530 (February 2011), repealed LR 39:2439 (September 2013).

§359. Creative Arts Development—Visual Art

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:531 (February 2011), repealed LR 39:2439 (September 2013).

§361. Creative Arts Development—Dramatic Art

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2326 (November 2003), amended LR 37:531 (February 2011), repealed LR 39:2439 (September 2013).

Subchapter F. Health and Physical Development

§363. Health and Physical Development [Formerly §325]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2329 (November 2003), amended LR 37:532 (February 2011), repealed LR 39:2440 (September 2013).

§365. Health and Physical Development—Health and Hygiene

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:532 (February 2011), repealed LR 39:2440 (September 2013).

§367. Health and Physical Development— Environmental Hazards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:532 (February 2011), repealed LR 39:2440 (September 2013).

§369. Health and Physical Development—Gross Motor

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:533 (February 2011), repealed LR 39:2440 (September 2013).

§371. Health and Physical Development—Fine Motor

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2330 (November 2003), amended LR 37:533 (February 2011), repealed LR 39:2440 (September 2013).

Subchapter G. Language and Literacy

§373. Language and Literacy Development [Formerly §329]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2332 (November 2003), amended LR 37:534 (February 2011), repealed LR 39:2440 (September 2013).

§375. Beginning Reading Skills [Formerly §331]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2332 (November 2003), amended LR 37:534 (February 2011), repealed LR 39:2440 (September 2013).

§377. Stages of Written Language Development [Formerly §333]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2332 (November 2003), amended LR 37:534 (February 2011), repealed LR 39:2440 (September 2013).

§379. Language and Literacy Development—Listening

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:534 (February 2011), repealed LR 39:2440 (September 2013).

§381. Language and Literacy Development—Speaking

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:536 (February 2011), repealed LR 39:2440 (September 2013).

§383. Language and Literacy Development—Reading

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:537 (February 2011), repealed LR 39:2440 (September 2013).

§385. Language and Literacy Development—Writing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:538 (February 2011), repealed LR 39:2440 (September 2013).

Subchapter H. Social and Emotional §387. Social and Emotional Development [Formerly §337]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2336 (November 2003), amended LR 37:538 (February 2011), repealed LR 39:2440 (September 2013).

§389. Social and Emotional Development—Self-Regulation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:539 (February 2011), repealed LR 39:2440 (September 2013).

§391. Social and Emotional Development—Self-Identity

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:539 (February 2011), repealed LR 39:2440 (September 2013).

§393. Social and Emotional Development—Self-Reliance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:539 (February 2011), repealed LR 39:2440 (September 2013).

§395. Social and Emotional Development—Respect for Others

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:541 (February 2011), repealed LR 39:2441 (September 2013).

§397. Social and Emotional Development—Interpersonal Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:541 (February 2011), repealed LR 39:2441 (September 2013).

Chapter 5. Pre-K Standards at a Glance

§501. Approaches to Learning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:542 (February 2011), repealed LR 39:2441 (September 2013).

§503. Cognitive Development—Mathematics

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:542 (February 2011), repealed LR 39:2441 (September 2013).

§505. Cognitive Development—Science

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003), amended LR 37:542 (February 2011), repealed LR 39:2441 (September 2013).

§507. Cognitive Development—Social Studies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003), amended LR 37:542 (February 2011), repealed LR 39:2441 (September 2013).

§509. Creative Arts Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003), amended LR 37:543 (February 2011), repealed LR 39:2441 (September 2013).

§511. Health and Physical Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2341 (November 2003), amended LR 37:543 (February 2011), repealed LR 39:2441 (September 2013).

§513. Language and Literacy Development [Formerly §507]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, 29:2341 (November 2003), amended LR 29:2341 (November 2003), LR 37:543 (February 2011), repealed LR 39:2441 (September 2013).

§515. Social and Emotional Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:543 (February 2011), repealed LR 39:2441 (September 2013).

Chapter 7. Glossary of Terms

§701. Glossary of Terms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:544 (February 2011), repealed LR 39:2441 (September 2013).

Chapter 9. Appendices

§901. Appendix A

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:545 (February 2011), repealed LR 39:2441 (September 2013).

§903. Appendix B

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:546 (February 2011), repealed LR 39:2441 (September 2013).

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RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII. 301, 303, 413, 515, 613, and 1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §301, School Performance Score Goal; §303, Transition from Fall 2012 to Fall 2013; §413, Dropout Credit Accumulation Index Calculations; §515, State Assessments and Accountability; §613, Calculating a Graduation Index; and §1301, Reward Eligibility.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School,
District, and State Accountability System**

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - B. ...

C. Preliminary school performance scores shall be released in the summer for schools that receive a letter grade of F. Final accountability results shall be issued by the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. For K-7 schools, the school performance score will consist entirely of one index based on assessments listed in the table below.

2. For K-8 schools, the school performance score will consist of an assessment index and a dropout/credit accumulation index.

K-8 School Performance Score Indices and Weights		
LEAP, iLEAP, LAA 1 and LAA 2	Grades K-7	100 percent
	Grades K-8	95 percent
Dropout/Credit Accumulation Index	Grade 8	5 percent

3. For schools with a grade 12, the school performance scores will include four indicators weighted equally as outlined in the table below.

High School Performance Score Indices and Weights		
End-of-Course Tests, LAA 1, LAA 2	Grades 9-12	25 percent
ACT*	Grade 12	25 percent
Graduation Index*	Grade 12	25 percent
Graduation Rate	Grade 12	25 percent

*When calculating a school's ACT score, students participating in the LAA 1 assessment shall not be included in the denominator of such calculations.

4. - 4.b.ii. ...

5. For schools with configurations that include grades 9-11, but do not have a grade 12, the school performance score will consist of the indices available.

a. For example:

i. a school with grade configuration of grades 7-10 will receive an assessment index that includes iLEAP, LEAP, LAA 1, LAA 2, and end-of-course assessments as 95 percent of the SPS. The dropout/credit accumulation index for data from grade 8 will count as 5 percent;

ii. a school with grades 9-11 will receive an SPS that includes the end-of-course assessment index.

D. Bonus Points

1. - 1.a....

b. a minimum of 30 percent of the students in the non-proficient subgroup meet or exceed their expected growth, as determined by the value-added model for students in grades K-8 and as determined by the ACT series for students in grades 9-12;

c. if 1.a and 1.b are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign bonus points. For students who earn an unsatisfactory on LEAP or iLEAP or needs improvement on end-of-course tests, the multiplier will be 0.2. For students who earn an approaching basic on LEAP or iLEAP or a fair on end-of-course tests, the multiplier will be 0.1.

2. The assessments used to determine growth in the non-proficient subgroup include, as available:

a. LEAP, iLEAP, and EOC scores for schools without a grade 12;

b. EXPLORE, PLAN and ACT scores for schools with grade 12; and

c. for schools with LEAP, iLEAP, EXPLORE, PLAN and ACT data, all tests will be used to determine bonus points.

3. - 3.a....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013).

§303. Transition from Fall 2012 to Fall 2013

A. Schools shall receive an annual 2013 SPS using the 150-point scale, as approved for the 2012-13 school year and as described in Chapters 3-6 of this bulletin. In order to illustrate growth from the 2011-2012 to the 2012-2013 school year, for the fall 2013 release only, schools shall also receive a 2012 transition baseline SPS and 2013 growth SPS based on the 200-point scale as described in this Section.

B. The 2012 transition baseline SPS and the 2013 growth SPS will use the indicators approved for the 2011-12 school year.

1. For elementary and middle schools, the following indicators will be used.

2012 Transition Baseline SPS and 2013 Growth SPS K-8 Indicators and Weighting	
Indices Used in SPS	Grades contributing data to Index
Assessment Index: LEAP, iLEAP, LAA-1 and 2 (90 percent K-8)	Grades 3-8
Attendance Index (10 percent K-6; 5 percent 7-8)	Grades K-8
Dropout Rate Index (5 percent 7-8)	Grades 7-8

2. For high schools, the following indicators will be used.

2012 Transition Baseline SPS and 2013 Growth SPS SPS 9-12 Indicators and Weighting	
Assessment Index: EOC, LAA-1 (70 percent)	Grades 9-12
Graduation Index: 30 percent	Cohort Graduation Data

C. The 2012 transition baseline SPS and the 2013 growth SPS assessment indices, the dropout index, and the cohort graduation index will be calculated per policy approved for the fall 2012 SPS except for the full academic year definition (See Subsection E below for more information.) and any policy that alters the calculation for alternative schools.

D. The 2012 transition baseline SPS will include data for two years. The 2013 growth SPS will include data for one year as outlined in the chart below.

School Performance Score	Assessment Data	Attendance, Dropout, Graduation Data
2012 Transition Baseline SPS (200 points possible)	Grades 3-8: 2011 and 2012 test scores for iLEAP, LEAP, LAA 1, and LAA 2, and EOC middle school bonus points as applicable Grades 9-12: 2011 and 2012 test scores from EOC Algebra I, English II, English III, Geometry, Biology, and LAA 1 as applicable	Grades K-8: 2010 and 2011 attendance Grade 7-8: dropout data High School: cohort graduation data
2013 Growth SPS (200 points possible)	Grades 3-8: 2013 test scores for iLEAP, LEAP, LAA 1 and LAA 2, and EOC middle school bonus points as applicable Grades 9-12: 2013 EOC test scores from Algebra I, English II, English III, Geometry, Biology, and LAA 1 as applicable	Grades 3-8: 2012 attendance Grades 7 and 8: dropout data High School: 2012 cohort graduation data
2013 Annual SPS (150 points possible)	Grades 3-8: 2013 test scores for iLEAP, LEAP, LAA 1 and LAA 2, EOC middle school bonus points, and non-proficient super-subgroup bonus points as applicable Grades 9-12: 2013 EOC test scores for Algebra I, English II, English III, Geometry, Biology, LAA 1, nonproficient super-subgroup bonus points, and highest ACT composite score through March 2013 for grade 12 students as applicable	Grade 8: 2012 dropout data Grade 9: Carnegie units by May 2013 for first-time 2012-13 students High School: 2012 cohort graduation data

E. The definition of full academic year, as described in §517, Inclusion of Students, will be used for all three school performance scores including alternative schools. Students are full academic year in an LEA if they are enrolled at any school in the LEA on October 1 and for testing. Students are full academic at the school where they are enrolled on February 1 if the school is in the LEA at which the student is full academic year.

F. Alternative school calculations for all three school performance scores will be the same as for all schools.

G. Two letter grades shall be assigned using the scale listed in the chart below. A letter grade will be assigned to the 2013 growth SPS based on the scale that was established for the 200 point scale used in 2011-12. A letter grade will be assigned to the 2013 annual SPS that was established for the 150 point scale and is included in §1101.

Letter Grade	2012 Transition Baseline SPS and 2013 Growth SPS	2013 Annual SPS
A	120.0-200.0	100.0-150
B	105.0-119.9	85.0-99.9
C	90.0-114.9	70.0-84.9
D	75.0-89.9	50.0-69.9
F	0-74.9	0-49.9

H. Schools will be eligible for top gains if they meet the growth goal of 5 points for schools with letter grade A and 10 points for schools with letter grade B-F. Schools can meet this goal in one of two ways:

1. actual growth as measured by the difference between the 2012 transition baseline SPS and the 2013 growth SPS; or

2. bonus points from the nonproficient super-subgroup calculations.

I. Schools are not eligible for top gains if they are in any level of subgroup component failure and/or if the letter grade assigned to the 2013 annual SPS is lower than the letter grade assigned to the 2013 growth SPS.

J. As outlined in this bulletin, consequences for schools are assigned using the 2013 annual SPS and letter grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2442 (September 2013).

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§413. Dropout/Credit Accumulation Index Calculations

A. - B.1.b. ...

2. Carnegie units earned in summer school after ninth grade will not be included.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 36:1990 (September 2010), LR 38:3107 (December 2012), LR 39: 2443 (September 2013).

Chapter 5. Inclusion in Accountability

§515. State Assessments and Accountability

A. - A.4.b. ...

B. Louisiana students in grades 9, 10, 11, and 12 will participate in at least one of the following state assessments on an annual basis:

1. - 6. ...

7. ACT in grade 11 or 12.

C. - F. ...

G. A score from a twelfth grade student will count in only one accountability cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011), LR 38:1212 (May 2012), LR 38:3107 (December 2012), LR 39:2443 (September 2013).

Chapter 6. Graduation Cohort, Index, and Rate
§613. Calculating a Graduation Index

A. Points shall be assigned for each member of a cohort during the cohort's fourth year of high school according to the following table.

Student Result	Points
HS Diploma plus AP score of at least 3 OR IB Score of at least 4	150
Academic OR Career/Technical Endorsement (For 2012-13 only) TOPS Opportunity Award (For 2012-13 only)	135
BESE Approved Industry Based Certification OR Dual Enrollment OR AP score of 1 or 2 OR IB score of 1, 2, or 3 if the corresponding course is passed.	110
Regular HS Diploma	100
GED	25
Non-graduate without GED	0
5th Year Graduate plus AP score of at least 3 OR IB Score of at least 4	140
5th Year Graduates	75

B. The graduation index of a school shall be the average number of points earned by cohort members.

C. For each student who graduates in the fifth year, 75 points shall be awarded to the graduation index. An additional 65 points shall be awarded to fifth year graduates who also have a score of at least 3 on an AP test or a score of at least 4 on an IB test for a total of 140 points.

1. The diploma must be earned no later than the third administration of the summer retest following the fourth year of high school of the students' cohort.

a. For example, a student who finishes the fourth year of high school in 2012 must complete the assessment requirements before or during the 2014 summer test administration.

2. When related to awarding fifth year graduate points, the enrollment must be continuous and consist of at least 45 calendar days.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013).

Chapter 13. Rewards/Recognition

§1301. Reward Eligibility

A. - B. ...

C. Schools will not be eligible for reward status regardless of growth if they are in any level of subgroup component failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:1334 (July 2007), LR 33:2595 (December 2007), LR 38:3111 (December 2012), LR 39:2444 (September 2013).

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RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Performance Standards (LAC 28:CXI.1813)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §1813. Policy language was edited to update U.S. history as new statewide assessments in §1813.A, and to include performance standards scaled-score ranges in §1813.B.6. Policy language was updated and edited as it relates to the new statewide assessment, U.S. history.

This document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to include new policy guidelines and edit previous policy language. Chapter 18 has been edited and updated to provide U.S. history scaled-score ranges that comply with new national academic guidelines.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 18. End-of-Course Tests

Subchapter D. Achievement Levels and Performance Standards

§1813. Performance Standards

A. Performance standards for EOCT algebra I, English II, geometry, biology, English III, and U.S. history tests are finalized in scaled-score form.

B. - B.5. ...

* * *

6. U.S. History

Achievement Level	U.S. History Scaled-Score Ranges
Excellent	748-800
Good	700-747
Fair	665-699
Needs Improvement	600-664

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR

35:215 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:35 (January 2012), LR 39:76 (January 2013), LR 39:2444 (September 2013).

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RULE

Board of Elementary and Secondary Education

Bulletin 136—The Louisiana Standards
for Early Childhood Care and Education
Programs Serving Children Birth-Five Years
(LAC 28:CLIX.Chapters 1-11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted the creation of *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*. The proposed policy establishes early learning standards for children from birth to age five as authorized by Act 3 of the 2012 Regular Session of the Legislature. The proposed policy provides for rules and guidelines for the implementation such program.

Title 28

EDUCATION

Part CLIX. Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years

Chapter 1. General Provisions

§101. Introduction

A. The experiences and skills that children develop during the early years are critically important to their success later in school. What children learn during the first few years of life helps to lay the foundation for their future growth and development.

B. In order for children to reach their full potential during those early years, it is important that the adults around them provide an environment and experiences that promote growth and learning. This document, Louisiana's birth to five early learning and development standards (ELDS), is designed to help early childhood do just that by describing the particular skills and abilities that children need to develop to be successful, and by providing ideas for fostering their development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2445 (September 2013).

§103. About this Document

A. Over the course of the past decade, the state of Louisiana has developed several documents to articulate expectations for children's learning and development and provide guidance for early childhood educators. These documents have been published under different titles and by different agencies within Louisiana.

B. To improve the quality of services for children, the early childhood community within Louisiana has worked to combine the state's early learning Standards into a single

document that describes a continuum of learning from birth to age five. This continuum is designed to help early childhood educators look across age levels and learning domains to see how children's development emerges and progresses over time. These Standards will replace the previous set of Standards, and will be applicable to all children, including those with disabilities and English language learners.

C. How This Document Was Developed

1. To develop Louisiana's early learning and development standards (ELDS), the Louisiana state Department of Education and the Department of Children and Family Services established a leadership team that was responsible for overseeing the revision of the standards. Members of the leadership team examined research, looked at other states' standards, and considered policy statements from state and national organizations. To ensure consistency with the current K-12 standards, they also examined the Louisiana grade level expectations for kindergarten and the common core state standards. Finally, they reviewed all appropriate research literature to make sure the expectations were inclusive of children from a variety of circumstances and with differing levels of ability.

2. The leadership team developed an initial draft of the standards and indicators, and then worked with experts to review and improve the document. First, it was reviewed by a broader stakeholder group of early childhood educators and parents from across the state. This stakeholder group included representatives of higher education institutions, private childcare, head start, early intervention, as well as teachers and administrators of early education programs. Stakeholders provided comments and feedback on the content of the standards, as well as the overall structure and format of the continuum twice. In addition to the stakeholder group, expert reviewers from outside of Louisiana were asked to provide feedback on the standards. Finally, the leadership team invited sought and comment from the public on a draft of the standards and indicators via an online survey. More than 240 early childhood educators and administrators from across Louisiana responded with comment and suggestions. All of the comments and suggestions that were received were invaluable toward shaping and strengthening the final version of the standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2445 (September 2013).

§105. Role of the Early Learning and Development Standards

A. The early learning and development standards are intended to be a framework for high-quality, developmentally appropriate early childhood programs and were designed to be used by early childhood you throughout Louisiana. The term *early childhood educator* is intended to encompass all those (e.g., teachers, caregivers, administrators, parents, etc.) who are responsible for the care and education of children from birth to age five. These standards establish a common vision for what the state of Louisiana wants children to learn before they enter kindergarten. As such, they provide age-appropriate goals for children's learning and development that can guide

teachers, caregivers and others on what types of experiences and activities children should have during their earliest years.

B. These standards and indicators are intended to be a guide for teaching young children. They are neither a curriculum nor a checklist for assessing children's development and learning. Individual areas of the standards are considered to be equally important and should be integrated into all experiences and activities. Finally, it is important to remember that while the standards will help educators determine what is typical for children in an age group, they might not always describe a particular child's development. When a child's development and learning does not seem to fit what is included in the standards continuum under his/her age level, look at the indicators for younger or older age groups to see if they are a better fit for the child. The goal is to learn what developmental steps the child is taking now, and to meet the individual needs of that child on a daily basis.

C. Educational research has consistently proven that there is a strong correlation between the quality of early childhood experiences and later academic success. Therefore, it is imperative that Louisiana's early childhood programs provide children with the foundational experiences needed for them to become successful learners. The standards and indicators provide adults with a guide for the skills they should focus on for children of different ages, and offer some general ideas for the types of experiences that will help children develop the skills and knowledge described in this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2445 (September 2013).

§107. Guiding Principles

A. There are a number of principles that guided the development of the document, and are intended to guide adults who are using the document with children.

NOTE: These guiding principles were reprinted with permission from the Connecticut state Department of Education preschool curriculum framework and benchmarks for children in preschool programs (May 1999).

1. Early learning and development are multidimensional; developmental domains are highly interrelated.

a. Development in one domain influences the development in other domains. For example, children's language skills impact their ability to engage in social interactions. Therefore, developmental domains cannot be considered in isolation of each other. The dynamic interaction of all areas of development must be considered.

2. Young children are capable and competent.

a. All children are capable of positive developmental outcomes. Therefore, there should be high expectations for all young children.

3. There are individual differences in rates of development among children.

a. Each child is unique in the rate of growth and the development of skills and competencies. Some children may have a developmental delay or disability that may require professionals to adapt expectations of individual children or adapt experiences so that they will be successful in attaining the performance standard. Additionally, each

child is raised in a cultural context that may impact a child's acquisition of certain skills and competencies.

4. Children will exhibit a range of skills and competencies in any domain of development.

a. Preschool age children will exhibit a range of skills and competencies in any area of development. All children within an age group should not be expected to master each skill to the same degree of proficiency at the same time.

b. Knowledge of child growth and development and consistent expectations are essential to maximize educational experiences for children and for program development and implementation.

c. Early care and education professionals must agree on what it is they expect children to know and be able to do, within the context of child growth and development. With this knowledge, early childhood staff can make sound decisions about appropriate curriculum for the group and for individual children.

5. Families are the primary caregivers and educators of their young children.

a. Families should be aware of programmatic goals and experiences that should be provided for children and expectations for children's performance by the end of the preschool years. Professionals and families should work collaboratively to ensure that children are provided optimal learning experiences. Programs must provide families with the information they may need to support children's learning and development.

6. Young children learn through active exploration of their environment through children-initiated and teacher-selected activities.

a. The early childhood environment should provide opportunities for children to explore materials and engage in concrete activities, and to interact with peers and adults in order to construct their own understanding about the world around them. There should therefore be a range of approaches to maximize children's learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2446 (September 2013).

§109. Effective Use of Early Learning and Development Standards with All Children

A. The standards that are presented in this document apply to all children in Louisiana who are not yet age-eligible to enter kindergarten. This includes:

1. children with and without disabilities;
2. children who are learning English; and
3. children who are participating in any type of early care and education program.

B. Children with Disabilities

1. Children with disabilities are those who require some form of special care because of developmental delays to their cognitive, physical, or social-emotional functioning. Inclusion of children with disabilities in early childhood programs is a manageable and best-practice goal. It provides them with the opportunity to learn alongside typically developing peers and creates high expectations for every child, regardless of ability. Early childhood teachers and caregivers can help make this possible by adapting or modifying their classrooms, their interactions, or their materials/equipment to include children of all abilities.

2. The early learning and development standards are designed to be used for all children. Educators and families working with children with disabilities should strive to help them make progress in the areas described in this document; however, it is important to remember that children with disabilities may not demonstrate progress in the same way or at the same rate as typically developing children. They may need extra support in the form of adaptations and modifications, and teachers may also need to adjust their curriculum and instructional strategies to meet the individual learning needs of children with disabilities. One advantage of the standards continuum is that it is easy to see what skills and knowledge are appropriate across the age levels from birth to age five. Teachers and caregivers working with children with disabilities may find it helpful to look at the standards and indicators provided for a younger age level if the child's current level of learning and development is not consistent with the standards and indicators written for their age. Knowing where each child is on the continuum (and what their logical next steps are) will help educators plan experiences and appropriately support their progress.

3. Assistance in identifying and implementing specific strategies for children with special needs is available to all programs in Louisiana. For more information on specific strategies, as well as how to best serve special needs children, please refer to the Appendix B of this document.

C. English Language Learners (ELL)

1. The term *English language learners* (ELL) refers to children who are learning a second language at the same time they are continuing to develop their native or home language. It is important for teachers and caregivers to understand that ELL children develop language in much the same way that they acquire other skills, at their own rate. A child's language development (both his/her home language and progress in learning English) will depend on the amount and type of language they hear other people using and the opportunities he/she has to practice language skills. Therefore, each child's progress in learning English needs to be respected and supported as part of the ongoing process of learning any new skill.

2. As teachers and caregivers work with ELL children, it is important to remember to address all areas of their learning and development. ELL children need to have opportunities to make progress on all of the standards and indicators described in this document. Research suggests that ELL children will learn concepts and display skills best in their home language during the time they are learning English. Therefore, whenever possible, children should have opportunities to interact with and engage in both their home language and in English in rich and meaningful ways. For example, program staff might learn to use some basic phrases from a child's home language, such as greetings or praise words. Programs can also invite the help of bilingual family members or volunteers who are willing to contribute their time in the classroom by interacting with children or serving as an interpreter for parents.

3. Teachers and caregivers should also remember that children can demonstrate any of the skills described in this document in their home language. They can demonstrate their understanding of health and safety practices, social skills with peers and adults, positive approaches to learning, language development, and knowledge of science,

mathematics and other areas in their home language. In fact, teachers and caregivers can best see ELL children's progress on the standards and indicators when children communicate in their home language, and it gives a more accurate picture of a child's progress. For instance, when learning to count (an indicator within the cognitive development domain), children may count in their home language. This signals to teachers and caregivers that the child has learned this concept and has the potential for transferring those skills to a second language. Again, teachers and caregivers who do not speak a child's home language may need to enlist the help of bilingual staff or family members to ensure that the ELL child has the opportunity to learn and demonstrate progress on the standards in his/her home language.

4. Finally, teachers and caregivers should remember that it is important to work closely with all children's families, and this is especially true for English language learners. Families can provide valuable information about the family's home language and how often the child hears English being spoken. The families may also provide information about how the child learns best, and they can work to reinforce what the child is learning in the program with similar experiences at home. Families are a tremendous resource for understanding a child's home culture, and they are key to working effectively with children from diverse cultures.

5. For more information on ELL children, please see the domain description for language and literacy development.

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§111. Overview of the Early Learning and Development Standards

A. What ages are covered in the early learning and development standards?

1. The continuum of the early childhood and development standards is divided into five age levels: infants (birth-11 months), young toddlers (9-18 months), older toddlers (16-36 months), three-year-olds (36-48 months), and four-year-olds (48-60 months). These age levels were selected because they represent developmentally significant periods in a young child's life. However, it is important for educators to remember that young children's development is often uneven and progresses at different rates. Children may change dramatically in one area, while development progresses more slowly in another area. Children with disabilities may demonstrate even greater variation in their abilities to progress and reach developmental milestones.

2. Because children develop at different rates, there is overlap at the youngest age levels (birth-11 months/infants; 9-18 months/young toddlers; and 16-36 months/older toddlers). Some children may not reach all of the indicators described in the first age level by the time they are 11 months old. Likewise, some children under 16 months of age may display some of the skills and abilities that are listed at the older toddler level. The overlap reflects the fact that it is normal for children this age to vary a lot in when they demonstrate the skills and behaviors described in the indicators written for infants and toddlers.

NOTE: Children should know and be able to do the skills in each age range by the time they reach the end of that age level.

B. How are the standards organized?

1. The early learning and development standards are organized into five domains of children's development:

- a. approaches to learning;
- b. cognitive development and general knowledge (including content areas of creative thinking and expression, mathematics, science, and social studies);
- c. language and literacy development;
- d. physical well-being and motor development; and
- e. social-emotional development.

2. These five domains represent major areas of development and learning, and define essential learning for school readiness and children's long-term success. The domains are designed to be interdependent and include all areas of children's learning and development. Each domain begins with a brief description of the domain and an explanation of why it is important for children's development and learning. Some ideas for promoting progress on the areas described in the standards are also offered. This description is followed by the standards continuum (sometimes called a "continuum" for short) for each domain. The continuum is a table that includes the standards and indicators for each age level. Louisiana has elected to arrange the indicators along a continuum so that all of the indicators for the age levels, infants to four-year-olds are included on the same row. This allows teachers and caregivers to easily look across the age levels to see the progression that a child might make toward the standard.

NOTE: The mathematics subdomain and the language and literacy domain include the alignment to the kindergarten common core for these two areas of development.

3. Each continuum is organized into subdomains which capture the specific areas of learning that make up the domain. For example, the domain of approaches to learning is divided into three subdomains: initiative and curiosity; attention, engagement, and initiative; and reasoning, problem-solving, and creative thinking.

4. Cognitive development is an area of development that is somewhat broader than the other domains. It includes the subdomain areas of creative thinking and expression, mathematics, science, and social studies. Each of these subdomains of cognitive development includes a description and explanation of its importance.

5. Within each subdomain is a set of standards and indicators. The standard is a statement that provides an overarching goal for skills and knowledge children should make progress toward. It provides a general statement of what children should know and be able to do that is applicable across age levels/groups.

6. The indicators provide more specific information about what children should know or be able to do at each age level. They are written for a specific age level and provide a description of the skills, knowledge, and/or characteristics a child should be doing to indicate progress toward the standard. The indicators typically do not represent expectations for the entire age range, but are a reflection of what children should know and be able to do at the end of each age level.

NOTE: The indicators do not have a one-to-one alignment across the different age ranges.

7. Each of the indicators is assigned a code that includes two numbers. This code appears at the end of each indicator in parentheses. The first number indicates age-level (i.e., 0 = infants; 1 = young toddlers; 2 = older toddlers; 3 = three-year-olds; and 4 = 4-year-olds), while the second number reflects the order of the item within the age level:

- a. 0-4—age level;
- b. 1, 2, 3, 4, etc.—indicator number.

8. For example, if an infant/toddler teacher is targeting standard 1 in approaches to learning, he/she might refer to specific indicators in the following ways, AL 1-0.1 or AL 1:0.1. Similarly, an older toddler teacher/caregiver might write an indicator as AL 1-2.1 or AL 1: 2.1.

9. Following the standards for each domain, there is a list of strategies to support development and learning. The strategies are intended to help teachers and caregivers think about how to best use the standards to guide what they do in the classroom. They are a guide for the type of teaching practices and interactions that adults can use to encourage children's progress on the indicators. This is not intended to be an exhaustive list of strategies, but is a place to start when planning activities to support children's learning.

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§113. Use of this Document with Other Documents in Louisiana

A. Early childhood educators often feel overwhelmed by the multitude of guidelines, requirements and recommendations that are part of the tools and information available. These birth to five early learning and development standards are designed to assist educators in improving the quality of care for all children in all settings by presenting goals for children's development and learning. They are consistent with other standards and guidelines provided to early childhood programs in Louisiana. The practices that are considered "best practice" will promote children's learning and development as described in this document, and are consistent with best practices in all types of programs and settings. Of course, programs and settings that have specific funding sources may require different policies, but all programs should be working toward improving quality to support children's progress on the standards and indicators included in this document.

B. The graphic below shows how these birth to five early learning and development standards compare to other documents that describe expectations for children's learning and development that are currently being used in Louisiana, specifically those from head start and Louisiana's kindergarten standards. In most instances, the domains and areas of development listed under one document are very similar to those found in another; however, there are some differences across the three documents.

C. We believe that the practices and recommended strategies that promote high quality early education services will support children's progress on the standards and indicators, and that as young children develop the skills and behaviors described in the ELDS and the head start framework, they will be ready to meet the kindergarten standards once they enter kindergarten.

Louisiana Early Learning and Development Standards	Head Start Child Development and Early Learning Framework Domains *	Louisiana Kindergarten Standards
Approaches to Learning		
Approaches to Learning	Approaches to Learning	N/A
	Creative Arts Development	
Cognitive Development		
Louisiana Early Learning and Development Standards	Head Start Child Development and Early Learning Framework Domains*	Louisiana Kindergarten Standards
Creative Thinking and Expression	(Found in Approaches to Learning)	N/A
Mathematics	Mathematics Knowledge and Skills	Mathematics (Common Core)
Science	Scientific Knowledge and Skills	Science (GLEs)
Social Studies	Social Studies Knowledge and Skills	Social Studies (GLEs)
	Logic and Reasoning	
Physical Development		
Physical Well-Being and Motor Development	Physical Development and Health	Physical Development (GLEs)
		Health (GLEs)
Language and Literacy Development		
Language and Literacy Development	Language Development	English Language Arts (Common Core)
	Literacy Knowledge and Skills	
Social and Emotional Development		
Social-Emotional Development	Social and Emotional Development	N/A

*Source: <http://eclkc.ohs.acf.hhs.gov/hslc/sr/approach/cdef>

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Chapter 2. Early Learning Standards Continuum

§201. Approaches to Learning

A. In the 1990s, the National Education Goals Panel recognized approaches to learning as an essential element of children's school readiness. The term *approaches to learning* typically refers to behaviors and attitudes that show how children approach tasks/activities and how they learn. Approaches to learning includes characteristics such as curiosity, problem-solving, maintaining attention, and persistence. These learning behaviors can help strengthen and facilitate children's learning across other school readiness domains. In fact, research has shown that approaches to learning is a distinct aspect of children's school readiness and is a strong predictor of their later success in school. Children with positive approaches to learning perform better academically and have more productive interactions with others. While some of these skills seem to come naturally to some children, researchers believe that others can be nurtured and developed through a supportive, high-quality learning environment.

B. Exploring and Acquiring New Knowledge

1. For very young children, growing and learning begins with personal experiences, and their openness and curiosity about new discoveries. Infants and toddlers learn about the world and gain new knowledge by taste, touch,

smell, sight, sound and through their physical actions. They begin to develop an awareness of themselves and others through relationships and through their social interactions with those around them. Environments where children feel safe and secure nurture their interest in the world and support their own unique learning style. With a consistent environment and trusting, responsive adults, children have the emotional security necessary for exploring, growing and learning.

C. Attention and Problem-Solving

1. The capacity to pay attention, to think creatively, and to solve problems are all important aspects of children's approaches to learning that develop during the early childhood period. At around age three, children are able to complete short-term, concrete tasks and activities. As they progress and move closer to age five, they are able to concentrate for longer periods of time, and perform longer-term and more abstract tasks such as finishing an art project they started the previous day or following an established plan for an activity.

2. As children move into the preschool years, they begin to establish learning behaviors that are more directly tied to later school success as they continue to explore the world and also gain knowledge related to academic subject areas. It is important that early childhood educators help foster the development of children's positive approaches to learning by providing an environment that is interesting and engaging, and allowing children opportunities and the freedom to explore in a safe, supportive environment.

3. Finally, regardless of the age, it is important for early childhood educators to understand that children vary in their learning styles and how they express their approaches to learning. For example, some children show great enthusiasm for trying new things, while others are more content to sit back and watch. This may be a result of temperament differences between children, or might be related to cultural differences because some cultures affirm the importance of curiosity while others encourage children to be more reserved. If a child's learning behaviors seem to be related to temperament, it is important for teachers and caregivers to know that they cannot force a change to a child's temperament. They can, however, learn to be attuned to these differences and provide support and guidance to children as they need it. The standards and indicators included in this domain describe important aspects of approaches to learning that early childhood you should seek to foster as they work with young children.

4. List of commonly cited components of approaches to learning:

- a. intrinsic motivation to learn;
- b. interest and joy in learning;
- c. initiative;
- d. persistence;
- e. ability to plan, focus and control attention;
- f. flexible problem-solving and inventiveness;
- g. tolerance for frustration;
- h. ability to connect and apply past learning to new experiences.

D. Standard 1—engage in play-based learning to explore, investigate, and acquire knowledge about themselves and their world.

Subdomain: Initiative and Curiosity				
Standard AL 1: Engage in play-based learning to explore, investigate, and acquire knowledge about themselves and their world				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
AL 1 Indicators				
<p>Show interest in body parts (e.g., fingers, toes). (0.1)</p> <p>Explore objects, materials, and/or people using all the senses (e.g., picking objects up and putting them in mouth, focusing attention on an object or someone doing something, etc.). (0.2)</p> <p>Select a particular material, toy or place to explore on their own. (0.3)</p> <p>Use simple behaviors to meet own needs (e.g., feeding self with finger food). (0.4)</p>	<p>Show curiosity and interest in actively exploring the environment. (1.1)</p> <p>Express choices and preferences. (1.2)</p> <p>Try to help with simple tasks and activities. (1.3)</p>	<p>Show curiosity and interest in daily experiences and activities. (2.1)</p> <p>Demonstrate a willingness to try new activities and experiences. (2.2)</p> <p>Actively explore the environment. (2.3)</p> <p>Demonstrate increasing interest and independence in completing simple tasks. (2.4)</p> <p>Insistent about preferences and may say "no" to adult. (2.5)</p>	<p>Demonstrate eagerness to learn through play and exploring the environment. (3.1)</p> <p>Complete a range of simple tasks on their own. (3.2)</p>	<p>Show curiosity, interest and a willingness to learn new things and try new experiences. (4.1)</p> <p>Choose a multi-step task and complete it on their own. (4.2)</p>

E. Standard 2—demonstrate attention, engagement, and persistence in learning.

Subdomain: Attention, Engagement, and Persistence				
Standard AL 2: Demonstrate attention, engagement, and persistence in learning				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
AL 2 Indicators				
<p>Focus attention on people around him/her. (0.1)</p> <p>Attend briefly to different people, sights and sounds in the environment. (0.2)</p> <p>Try to make things happen. (0.3)</p>	<p>Interact with people, objects or activities for short periods of time. (1.1)</p> <p>Show interest in activities, people and the environment for a short period of time. (1.2)</p> <p>Show pleasure in completing simple tasks. (1.3)</p>	<p>Actively engage with people, objects, or activities in the environment for longer length of time. (2.1)</p> <p>Maintain attention to complete a short, simple task with adult support. (2.2)</p> <p>Complete self-chosen activity and repeats the activity many times to gain mastery. (2.3)</p>	<p>Maintain focus on objects and activities of interest while other activities are going on in the environment. (3.1)</p> <p>Maintain focus on a complex activity with adult support. (3.2)</p> <p>With prompting and support, develop a simple plan for and work towards completion of short tasks, and activities. (3.3)</p>	<p>Stay engaged with others, objects, and activities despite interruptions or disruption. (4.1)</p> <p>Maintain attention in child-initiated and adult-directed activities despite distractions and interruptions. (4.2)</p> <p>Plan and complete tasks and activities. (4.3)</p>

F. Standard 3—recognize, understand, and analyze a problem and draw on knowledge or experience to seek solutions.

Subdomain: Reasoning, Problem-solving, and Creative Thinking				
Standard AL 3: Recognize, understand, and analyze a problem and draw on knowledge or experience to seek solutions				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
AL 3 Indicators				
<p>Notice the effect of own actions when playing with a variety of objects and/or interacting with others. (0.1)</p> <p>Interact with a toy or object in more than one way. (0.2)</p> <p>Use simple actions to solve problems (e.g., scooting to reach favorite toy). (0.3)</p> <p>Play with a variety of objects and notice similar and different outcomes. (0.4)</p> <p>Look to adult for assistance (e.g., may vocalize to get adult's attention). (0.5)</p>	<p>Repeat behaviors to produce interesting effects (e.g., as shaking a stuffed animal to listen to the sound that it makes). (1.1)</p> <p>Observe others' actions with objects and materials to learn strategies for interaction. (1.2)</p> <p>Solve familiar problems or tasks. (1.3)</p> <p>Use trial and error to solve a new problem or unfamiliar task. (1.4)</p> <p>Use gestures and simple language when help is needed. (1.5)</p>	<p>Demonstrate an understanding of cause and effect (e.g., purposefully try to make things happen). (2.1)</p> <p>Repeat behaviors to produce desired effect. (2.2)</p> <p>Observe and imitate others' when trying to carry out new tasks or actions. (2.3)</p> <p>Apply new action or strategy to solve problem. (2.4)</p> <p>Use trial and error to solve more complex tasks or problems. (2.5)</p> <p>Ask others for help if needed. (2.6)</p> <p>Use language when asking for help from adults or peers. (2.7)</p>	<p>Experiment to see if the same actions have similar effects on different objects. (3.1)</p> <p>Remember and apply previously learned information to a familiar object, task or situation. (3.2)</p> <p>Use a variety of strategies to solve a problem when the first try is unsuccessful. (3.3)</p> <p>Ask adults for help on tasks, if needed. (3.4)</p>	<p>Identify and understand cause and effect relationships. (4.1)</p> <p>Apply prior knowledge and experiences to learn new skills during play. (4.2)</p> <p>Use a variety of strategies to investigate possible solutions, to accomplish a task, or to solve a problem. (4.3)</p> <p>Make specific request for help from both peers and adults as needed. (4.4)</p>

G. Standard 4—demonstrate creative thinking when using materials, solving problems, and/or learning new information.

Subdomain: Reasoning, Problem-solving, and Creative Thinking				
Standard AL 4: Demonstrate creative thinking when using materials, solving problems, and/or learning new information.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
AL 4 Indicators				
<p>Try a new action with a familiar object when interacting with others. (0.1)</p> <p>Manipulate objects in order to explore them. (0.2)</p>	<p>Use familiar objects in new and unexpected ways. (1.1)</p> <p>Ask questions to obtain adult response. (1.2)</p>	<p>Use objects, art materials and toys in new and unexpected ways. (2.1)</p> <p>Ask what, how, and why questions to seek information. (2.2)</p>	<p>Express unique ideas in both language and use of objects in a variety of situations. (3.1)</p> <p>Ask more complex questions for clarification and to seek meaningful information. (3.2)</p>	<p>Express unique ideas and approach tasks and experiences with flexibility, imagination and inventiveness. (4.1)</p> <p>Gather information and ask complex questions in order to understand a new or familiar concept. (4.2)</p>

H. Strategies for Approaches to Learning

Strategies for Approaches to Learning
Infants
<p>Recognize that children have their own individual temperament. Provide experiences that are a good match for each baby's temperament.</p> <p>Place infants in a safe area large enough for them to move freely. Place toys around the area to encourage movement.</p> <p>Allow infants time to try to solve problems on their own. Know each infant's tolerance for frustration and his or her developing abilities. Allow the babies to experience challenges but help them before they become too frustrated.</p> <p>Comment on their successes as they solve problems: "Jamal, you worked hard to pick up that rattle."</p> <p>Add interesting toys of different textures that are responsive to the action of the infant such as soft balls, rattles, cloth toys, squeeze toys, plastic keys, and mobiles.</p> <p>Talk with infants about what they are experiencing through their senses. Say, "That towel is wet. Remember when your shirt got wet."</p> <p>Encourage creativity rather than imposing limits on how mobile infants use materials.</p>
Toddlers
<p>Recognize and accept that caring for toddlers with their contrasting emotional states and mood shifts can be challenging. Be flexible in your ability to adapt to their constantly changing behaviors and moods.</p> <p>Create simple interest areas for toddlers:</p> <ul style="list-style-type: none"> Home living with baby dolls, blankets, handbags, caps and shoes. Book area with sturdy books and space to sit. Art and expressive materials area with easel, thick paints, brushes, large pieces of paper, washable markers. Sensory area to include sand and water play with measuring cups, sieves and sifters. <p>Allow children freedom to play with materials with a minimum of adult assistance. As toddlers interact with materials they come to understand concepts and relationships.</p> <p>Use language to interact and describe what toddlers are doing. "Yes, Olivia, the baby is going to sleep and you are patting her back."</p> <p>Encourage children to try and figure out how things work by asking questions such as, "I wonder what would happen if you pulled that string?"</p>
3-Year-Olds
<p>Offer choices.</p> <p>Establish procedures, routines, and rules to instill responsibility. Structure the day so transitions and distractions are minimized. Recognize and plan for children's differences and their diverse ways of learning.</p> <p>Watch for and acknowledge increasing complexity in children's play (e.g., "Your tower of blocks became a fire station and now you've built a whole town").</p> <p>Offer assistance only after determining a child's need and intent.</p> <p>Celebrate perseverance as well as the completed project (e.g., make comments like "You're the kind of person who doesn't give up.>").</p> <p>Listen to children and build on their individual ideas and concepts.</p>

Strategies for Approaches to Learning
4-Year-Olds
<p>Provide items for use in dramatic play that authentically reflect life (e.g., a real firefighter's hat, a real doctor's stethoscope, or an authentic kimono).</p> <p>Stock the classroom with materials that appeal to both genders and a full range of learning characteristics, cultures, and ability levels of children.</p> <p>Use open-ended and leading questions to explore different interests or to ask children for suggestions (e.g., "How can you make the car go faster?" or "How does the water make the wheel turn at the water table?").</p> <p>Set an example by acknowledging one's own "mistakes" and modeling constructive reactions to them.</p> <p>Help children think and talk through different approaches to problems.</p> <p>Ask probing questions when children are confused to bring them to a greater understanding.</p>

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Chapter 3. Cognitive Development and General Knowledge

§301. Creative Thinking and Expression

A. Introduction

1. Creative arts development promotes creativity, individual expression, self-esteem, imagination, and appreciation of cultural diversity. Through music, movement, visual arts, and dramatic arts, young children are encouraged to explore and express themselves creatively. Creative expression is important for many reasons, but partially because it supports children's cognitive growth, problem-solving skills, and growing insight into the world around them. Creative arts provides children with an opportunity to explore and express him/herself in ways that stimulate brain growth and experience in many expressions of human intelligence. Such opportunities help children to develop their talents and recognize their own uniqueness.

B. Encouraging Creativity

1. From a very young age, children respond to color, sound, and movement. Bright colors, interesting textures or a variety of sounds help to stimulate an infant's natural interest and curiosity. Providing a variety of sights, sounds, smells, tastes, and textures for young children to explore helps nurture the development of creativity.

2. As children grow, they begin to use their imagination and think more creatively. The preschool years can be one of the most creative times in a child's life as they look for ways to express their thoughts, ideas and feelings through music, drama, and visual art.

3. It is important for teachers and parents to understand that children's creativity depends a great deal on the environment in which they live and play, as well as the adults with whom they interact. Creativity requires a certain amount of freedom and risk taking; therefore, it is important that adults create an atmosphere that encourages children and allows the occasional mistake. Teachers should offer creative activities that emphasize the experience rather than the outcome. These experiences should be concrete, hands-on learning activities, offered in a risk-free environment where all children are encouraged to express themselves freely.

4. Stages of Art Development

a. Scribbling Stage (3-to 4-years of age)

- i. Children use crayons, markers, and paint in zigzag fashion and circular motions.
- ii. Later, the scribbles become more controlled.
- iii. Their work is exploratory.
- iv. Color is unrealistic.
- v. The child begins to draw symbols like circles, crosses, and lines.

b. Preschematic Stage (4-to 7-years of age)

i. Age 4

(a). The child begins to show definite forms in representing a person, making a circle for the head and two vertical lines for legs.

(b). Sometimes there is a mouth, arms, hands, feet, or shoes.

(c). Objects are drawn at random, and they are not in sequence or proportion.

(d). At this stage, form is more important than color.

(e). As children progress through this stage, size becomes more proportional, and they gain more brush control as their paintings begin to look more like illustrations.

ii. Age 7

(a). The child has established a mental picture of an object that is repeated with each painted repetition of the object.

(i). For example, each time the child paints a house, it will look very much like all the other houses he/she has painted.

c. Schematic Stage (6-to 9-years of age)

i. At this stage, sky lines (usually blue) and base lines (usually green) appear on the top and bottom of drawings. Items drawn between these lines usually are proportional, and they are on the base line as appropriate.

NOTE: source, *The Portfolio and Its Use: A Road Map for Assessment* by Sharon MacDonald

C. Standard 1—develop an appreciation for music and participate in music and movement activities that represent a variety of the cultures and the home languages of the children in the classroom.

Subdomain: Creative Thinking and Expression (CC)				
Standard CC 1: Develop an appreciation for music and participate in music and movement activities that represent a variety of the cultures and the home languages of the children in the classroom.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CC 1 Indicators				
Show interest and respond to different voices and sounds. (0.1) Listen and respond to music by moving their bodies. (0.2)	Imitate sounds and movements to favorite songs or music. (1.1) Make sounds using musical toys and other objects (e.g. push toys, toys that make sounds or music, wooden blocks, etc.). (1.2) Move their bodies in simple ways (e.g., sway, clap hands) and use objects to produce sounds and/or music. (1.3)	Move and dance to favorite songs and music. (2.1) Participate in familiar songs and finger plays. (2.2) Use sounds/words or their bodies (clapping), instruments and other objects to imitate the beat and/or rhythm from music with help from adults. (2.3) Respond to changes in tone and melody. (2.4) Move their bodies creatively. (2.5) Use objects and/or their voice to produce sounds and/or music that is unique or creative. (2.6)	Listen and respond to different types of music (jazz, classical, country lullaby, etc.) through movement. (3.1) Participate in songs and finger plays. (3.2) Use instruments, sounds/words, and/ or their bodies to imitate or produce their own beat and/or rhythm. (3.3) Identify changes in tempo when listening to music. (3.4) Replicate changes in tempo. (3.5) Use instruments, props, and body to respond creatively to music. (3.6)	Express thoughts and feelings through movement and musical activities. (4.1) Participate in different types of music activities, including songs, finger plays, and playing instruments. (4.2) Use instruments, other objects and/ or their bodies to imitate and produce more complex beat and rhythm patterns. (4.3) Describe changes in tone, melody, rhythm, and tempo. (4.4) Use instruments, props, and body creatively to express self through music and movement. (4.5)

D. Standard 2—develop an appreciation for visual arts from different culture and create various forms of visual arts.

Subdomain: Creative Thinking and Expression (CC)				
Standard CC 2: Develop an appreciation for visual arts from different culture and create various forms of visual arts.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CC 2 Indicators				
Respond to or show interest in visual stimuli (e.g., mobiles, stuffed animals, prints, art work, etc.). (0.1)	Show interest in visual stimuli such as wall hangings, paintings, pictures, or photographs. (1.1) Explore art materials (e.g., mouthing, banging, grasp crayon in hand, make marks on paper, etc.). (1.2)	Choose to participate in various forms of art activities. (2.1) Select materials and make decisions about how to create their own art (that may represent their own culture). (2.2) Choose to participate in various forms of art activities. (2.3) Use a variety of tools and materials to create art. (2.4)	With prompting and support, describe what they like and do not like about various forms of art. (3.1) Describe general features (color, size, objects included) of a piece of art work. (3.2) Create artistic works with different types of art materials, tools and techniques through individual and group art activities. (3.3)	Observe and/or describe what they like and do not like about various forms of art and how it makes them feel. (4.1) Describe specific elements of a piece of art (e.g., texture, use of colors, line, perspective, position of objects included). (4.2) Create artistic works that reflect thoughts, feelings, experiences, or knowledge using different materials, tools and techniques. (4.3)

E. Standard 3: Explore roles and experiences through dramatic art and play.

Subdomain: Creative Thinking and Expression (CC)				
Standard CC 3: Explore roles and experiences through dramatic art and play.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36 - 48 months)	Four-Year-Olds (48 - 60 months)
CC 3 Indicators				
Observe and imitate the actions of others (e.g., imitates mother’s facial expression, holds a baby doll while mother holds a baby). (0.1) Explore toys and other objects. (0.2) Use everyday items (e.g., pots and pans, wooden spoons, cups) in their play. (0.3)	Use one object to represent another object. (1.1) Imitate voice inflections and facial expressions from a character in a story. (1.2) Imitate more than one action seen previously (e.g., picks up phone and paces while jabbering). (1.3)	Observe and/or engage in short dramatic performances with adult support. (2.1) Pretend to be a character in a story by imitating and repeating voice inflections and facial expressions. (2.2) Engage in brief episodes of make-believe play that involves sequenced steps, assigned roles, and/or an overall plan for the play. (2.3) Use one object to represent another object. (2.4)	Observe and/or engage in a variety of dramatic performances (e.g., puppetry, story-telling, dance, plays, theater). (3.1) With prompting and support, role play or use puppets to act out stories. (3.2) Recreate real-life experiences (that may reflect their home culture or language) through pretend play. (3.3) Use one object to represent another object. (3.4)	Experience, respond to, and engage in a variety of dramatic performances (e.g., puppetry, story-telling, dance, plays, pantomime, theater). (4.1) Role play or use puppets to act out stories or play a character. (4.2) Represent fantasy and real-life experiences through pretend play. (4.3) Use objects to represent other objects. (4.4)

F. Strategies for Creative thinking and expressions.

Cognitive Development and General Knowledge Strategies for Creative Thinking and Expression
Infants
<p>Offer a wide variety of experiences to all infants, including children with disabilities. Make sure that these experiences encourage use of their senses: feeling, smelling, looking, hearing, and tasting.</p> <p>Provide infants with opportunities to be outside and experience the outdoors (e.g., listen to birds, touch the grass, pick up leaves).</p> <p>Give opportunities for children to use paint, crayons, and chalk; however, they will need to be closely supervised in these activities.</p> <p>Accept that children may get dirty or messy as part of the learning process.</p> <p>Set up musical mobiles for infants to watch and listen to.</p> <p>Let children listen and move to many types of music. For example, play soft, soothing music during naptime or energetic, bouncy music for children to dance to.</p>

Cognitive Development and General Knowledge Strategies for Creative Thinking and Expression
Toddlers
<p>Provide a variety of unstructured materials that toddlers can use creatively (e.g., art and expressive materials area with easel, thick paints, brushes, large pieces of paper, chalk, clay, etc.).</p> <p>Offer materials that are in the same category but are different in some way (such as size or texture), or that produce different results, such as painting with spatulas rather than brushes, or music shakers with different sound makers inside.</p> <p>Play music of all kinds-jazz, classical, folk, etc.-not just children’s songs. Review songs ahead of time to make sure that they are appropriate for young children.</p> <p>Dance and use creative movement activities with children using different kinds of music and props.</p> <p>Allow and encourage children to solve problems in their own way.</p> <p>Encourage children to make up new songs, chants or rhymes.</p> <p>Display children’s artwork at eye level and be sure to talk often about their work.</p>

Cognitive Development and General Knowledge Strategies for Creative Thinking and Expression	
3-Year-Olds	
Provide a variety of sensory materials for both indoor and outdoor play (e.g., clay, goop (water and cornstarch), chalk, wood pieces, play-dough). Invite children to talk about their artwork and describe it for others. If children are unable to describe verbally, make specific comments about observations about what you see (e.g., "you used a lot of blue in your picture"). Provide dress-up materials to encourage pretend play. Include a variety of themes such as hardhats and tools for builders or stethoscope and scrubs for doctors. Listen to a wide variety of music. Talk about the variations in the music, such as loud/soft, fast/slow. Point out the sounds made by different instruments. Introduce children to a variety of music forms. Encourage them to express themselves through dance and body movements.	
4-Year-Olds	
Take pictures of children engaged in creative activities. Display these for families to see and so that children can easily recall things that they have done. Provide toys or materials that create real-life scenes such as a farm or school room (e.g., stuffed animals and puppets). Encourage children to pretend using these materials. Ask families to share music or recordings from home for the children to enjoy. Play songs and perform dances from different places around the world. Create opportunities in dramatic play where children can role-play familiar roles or situations (e.g., shopping in a grocery, ordering food in a restaurant, being the teacher). Display children's artwork throughout the classroom and building. Encourage children to answer questions and talk about the meaning of their work.	

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§303. Mathematics

A. Introduction

1. The preschool years are a wonderful time for children to become interested in mathematics. Mathematics helps children make sense of the world around them and

helps them find meaning in the physical world. Through mathematics, children learn to understand their world in terms of numbers and shapes. They learn to reason, to connect ideas, and to think logically.

2. Young children develop mathematical concepts through meaningful and concrete experiences that are broader in scope than numerals and counting. In a developmentally appropriate play-based environment, teachers and caregivers can build on children's everyday activities to help children learn mathematical ideas and develop positive attitudes toward mathematics.

B. Building a foundation for mathematics

1. With very young children-infants and toddlers-teachers can use descriptive language in everyday conversations to help build children's understanding of quantity (e.g., "more," "all gone"). Teachers and caregivers can also play games, sing songs, and read books that use numbers and counting. For older preschoolers, teachers and caregivers might work with children to use mathematics skills, such as measuring and knowledge of shapes, to build something. They might also introduce games and activities that specifically deal with mathematics such as games that require sorting or comparisons.

2. Early childhood teachers must be flexible during daily routines and strive to capture teachable moments using open-ended questioning techniques to help children expand their mathematical thinking. They must also create an environment that encourages mathematical play and exploration. Including materials such as unit blocks, manipulatives, or a props for a dramatic play center where children include counting in their play (such as a store) helps form the foundation that children need to develop mathematical knowledge.

C. Standard 1—understand numbers, ways of representing numbers, and relationships between number and quantities.

Subdomain: Mathematics (CM)					
Standard CM 1: Understand Numbers, Ways of Representing Numbers, and Relationships between Number and Quantities					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten Math Common Core Standards Alignment
CM 1 Indicators					Counting and Cardinality (K.CC)
Attend to an adult counting. (0.1) Respond to adult question of whether or not they want more. (0.2)	Participate in simple counting activities. (1.1) Understand the concepts of "more" and "all." (1.2)	Recite the number list to count to 6. (2.1) With prompting and support, count up to 3 and then backwards from 3. (2.2) Tell "how many" after counting a set of three or fewer items (e.g., fingers, blocks, crayons). (2.3) Understand the concepts of "one" and "two" (e.g., parent says, "take just one cookie"). (2.4) With prompting and	Verbally count by ones to 10. (3.1) With prompting and support, count up to 5 and then backwards from 5. (3.2) Tell "how many" after counting a set of five or fewer items (e.g., fingers, blocks, crayons). (3.3) Counts one to five objects (actual objects or pictures of objects) with one-to-one correspondence or when doing simple routines. (3.4)	Verbally count by ones to 20. (4.1) Count forward from a given number between 1 and 10, and count backward from 5. (4.2) Understand that the last number named tells the number of objects counted for a set of 10 or fewer objects. (4.3) Count out a specified number of objects from a set of 10 or fewer objects when asked. (4.4) Identify written	K.CC 1
					Count to 100 by ones and by tens.
					K.CC 2
					Count forward beginning from given number within the known sequence (instead of having to begin at 1).
					K.CC 3
					Write numbers from 0-20. Represent a number of objects with at written numeral 0-20 (with 0 representing a count of no objects).
					K.CC 4

Subdomain: Mathematics (CM)					
Standard CM 1: Understand Numbers, Ways of Representing Numbers, and Relationships between Number and Quantities					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten Math Common Core Standards Alignment
CM 1 Indicators					Counting and Cardinality (K.CC)
		<p>support, counts one to three objects using one-to-one correspondence when doing simple routines. (2.5)</p> <p>(Identify one or two written numerals when named. (2.6)</p> <p>Can match one or two written numerals with the correct amount of objects. (2.7)</p> <p>Understand the concepts of "more," "all" or "none". (2.8)</p> <p>Visually compare two sets of objects and identify which set has more. (2.9)</p>	<p>Identify some written numerals but not in sequence. (3.5)</p> <p>With prompting and support, match four or five numerals with the correct number of objects. (3.6)</p> <p>Count two sets of objects and identify which set has more/less/fewer. (3.7)</p> <p>Identify an object or person as first. (3.8)</p>	<p>numerals 0-10 in the everyday environment. (4.5)</p> <p>With prompting and support, match a number of objects with the correct written numeral from 0-10. (4.6)</p> <p>Compare sets of objects using same/different and more/less/fewer. (4.7)</p> <p>Identify an object's or person's position as first or last. (4.8)</p>	<p>Understand the relationship between numbers and quantities; connect counting to cardinality.</p> <p>a. When counting objects, say the number names in the standard order, pairing each object with one and only one number name and each number name with one and only one object.</p> <p>b. Understand that the last number name said tells the number of objects counted. The number of objects is the same regardless of their arrangement or the order in which they were counted.</p>
					K.CC 6
					Identify whether the number of objects in one group is greater than, less than, or equal to the number of objects in another group, e.g., by using matching and counting strategies.
					K.CC 7
					Compare two numbers between 1 and 10 presented as written numerals.

D. Standard 2: Understand basic patterns, concepts, and operations.

Subdomain: Mathematics					
Standard CM 2: Understand basic patterns, concepts, and operations.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Math Common Core Standards Alignment
CM 2 Indicators					Measurement and Data (K.MD)
<p>Show interest in simple patterns that can be seen in the everyday environment (e.g., carpet squares of repeating colors, blocks arranged in a pattern by their shape). (0.1)</p>	<p>Show interest in simple patterns that can be seen in the everyday environment (e.g., carpet squares of repeating colors, blocks arranged in a pattern by their shape). (1.1)</p> <p>Imitate simple movement patterns. (1.2)</p> <p>Participate in comparing objects/toys by one observable/physical attribute (e.g., color, size, shape). (1.3)</p> <p>Match/group a small number of objects together based on one</p>	<p>Show interest in patterns that can be seen in the everyday environment (e.g., stringing beads, colored carpet squares, blocks of different shapes). (2.1)</p> <p>Copy simple movement or rhythmic patterns. (2.2)</p> <p>Group/sort 3 to 4 objects by one feature into two or more groups based on observable/physical characteristics (e.g., group toy animals into piles of bears, cats and dogs) with little assistance. (2.3)</p> <p>Participate in activities that combine and separate groups/sets</p>	<p>Copy a simple repeating pattern (e.g., stringing beads, placing blocks in a row, clapping a rhythm). (3.1)</p> <p>Sort and classify five or more objects by one feature into two or more groups based on observable/physical characteristics (e.g., group toy animals into piles of bears, cats, and dogs) and explain or label each group. (3.2)</p> <p>Use objects to demonstrate adding and subtracting of one or two objects to a group of objects that total 3 or fewer. (3.3)</p>	<p>Recognize, copy, and extend patterns. (4.1)</p> <p>Sort objects by more than one attribute (e.g., red circles or blue triangles) and explain the criteria used to sort objects. (4.2)</p> <p>Use concrete objects to demonstrate simple addition and subtraction problems that total 6 or fewer. (4.3)</p> <p>Model and act out story problems, physically or with objects, to solve whole number problems with sums less than or equal to 6. (4.4)</p>	<p>K.MD 3</p> <p>Classify objects into given categories; count the numbers of objects in each category and sort the categories by count.</p>
					Operations and Algebraic Thinking (K.OA)
					K.OA 1
					Represent addition and subtraction with objects, fingers, mental images, drawings, sounds (e.g., claps), acting out situations, verbal explanations, expressions, or equations.

Subdomain: Mathematics					
Standard CM 2: Understand basic patterns, concepts, and operations.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Math Common Core Standards Alignment
CM 2 Indicators					Measurement and Data (K.MD)
	observable/physical attribute (e.g., color, size, shape). (1.4) Participate in activities that combine and separate groups/sets of objects. (1.5)	of objects. (2.4) Participate in songs, finger plays and stories that illustrate combining and taking away objects/items (e.g., Five Little Pumpkins, Anno's Magic Seeds, One More Bunny). (2.5) Participate in simple story problems created with objects and/or manipulatives. (2.6)	Participate in songs, finger plays and stories that illustrate combining and taking away objects/items (e.g., Five Little Pumpkins, Anno's Magic Seeds, One More Bunny). (3.4) Act out story problems, physically or with objects, to solve whole number problems with sums less than or equal to 3. (3.5)		K.OA 2 Solve addition and subtraction word problems, and add and subtract within 10, e.g., by using objects or drawings to represent the problem.

E. Standard 3: Understand attributes and relative properties of objects as related to size, capacity, and area.

Subdomain: Mathematics					
Standard CM 3: Understand attributes and relative properties of objects as related to size, capacity, and area.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten Math Common Core Standards Alignment
CM 3 Indicators					Measurement and Data (K.MD)
Play with toys and other objects of different sizes and weights. (0.1)	With adult support, notice differences in the size of objects. (1.1) Participate in activities that compare the size and weight of objects. (1.2)	Compare the size or weight of two objects and identify which one is longer/ taller/ heavier than the other. (2.1) Manipulate, handle, and use a variety of measurement tools in play. (2.2) Participate in measurement activities using standard measurement tools (e.g., measure the length of their body, weigh objects, or measure ingredients during a cooking activity). (2.3)	Describe some measurable attributes (length and weight) of objects and materials (e.g. big/little, long/short, heavy/not heavy). (3.1) Compare the size or weight of more than two objects and describe which one is longer/taller/shorter/ heavier/lighter. (3.2) Identify/name simple measurement tools (e.g., ruler, measuring cup, and scale). (3.3) Participate in measurement activities using standard measurement tools (e.g., measure the length of their body, weigh an apple, or measure one cup of flour during a cooking activity). (3.4)	Describe measurable attributes (length and weight) of objects and materials, using comparative words. (4.1) Put up to six objects in order by length (seriate). (4.2) Identify/name simple measurement tools and describe what they are used for (e.g., ruler measures length, scale measures weight). (4.3) Participate in measurement activities using standard measurement tools to measure the length and weight of objects and materials (e.g., ruler, scale, measuring cup). (4.4)	K.MD 1 Describe measurable attributes of objects, such as length or weight. Describe several measurable attributes of a single object. K.MD 2 Directly compare two objects with a measurable attribute in common, to see which object has "more of" / "less of" the attribute and describe the difference.

F. Standard 4: Understand shapes, their properties, and how objects are related to one another in space.

Subdomain: Mathematics					
Standard CM 4: Understand shapes, their properties, and how objects are related to one another in space					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten Math Common Core Standards Alignment
CM 4 Indicators					Geometry (K.G)
<p>Explore various shapes. (0.1) Move their body in space and observe people and objects as they move through space. (0.2)</p>	<p>Explore the ways shapes and objects fit together (e.g., if a piece comes off a toy, put it back on; solve one- or two-piece puzzles). (1.1) Move their body to follow simple directions related to position in space (e.g., on, under, up, down). (1.2)</p>	<p>Recognize at least two basic shapes. (2.1) Point to a shape that has a specific attribute (e.g., round, straight sides). (2.2) Solve simple puzzles that require two pieces to fit together. (2.3) Participate in creating simple shapes using objects or other materials. (2.4) Move their body and move objects to follow simple directions related to position (e.g., in, on, under, over, up and down) and proximity (e.g., beside, between). (2.5)</p>	<p>Recognize basic shapes in the environment in two- and three-dimension forms. (3.1) With prompting and support, name the attributes of two shapes. (3.2) Create, simple shapes using objects or other materials. (3.3) Create representations of everyday objects by combining basic shapes (e.g., pictures, tangrams, or block structures to represent a house). (3.4) With prompting and support, combine (compose) or take apart (decompose) shapes to make other shape(s) (e.g., put two triangles together to make a square, take two halves of a rectangle apart and recognize that pieces are two other shapes). (3.5) Identify positions of objects, self and other people in space (e.g., in/on, over/under, up/down, and inside/outside). (3.6)</p>	<p>Identify and name at least the four basic shapes (rectangles, squares, circles, and triangles) when presented using different sizes and in different orientations. (4.1) Describe and name attributes of four basic shapes (e.g., a square has four equal sides, a circle is round). (4.2) Copy or replicate one or two dimensional shapes using a variety of materials. (4.3) Combine (compose) or take apart (decompose) shapes to make other shape(s) (e.g., put two triangles together to make a square, take two halves of a rectangle apart and recognize that pieces are two other shapes). (4.4) Use and understand positions of objects, self and other people in space (e.g., in/on, over/under, up/down, inside/outside, beside/between, and in front/behind). (4.5)</p>	K.G 1
					K.G 2
					K.G 4
					K.G 5
					K.G 6
					K.G 6

G. Strategies for Mathematics

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§305. Science

A. Introduction

1. Young children are natural scientists. They easily become fascinated by everyday events and experiences. Through varied and repeated opportunities to predict, observe, manipulate, listen, experiment with, reflect, and respond to open-ended questions, young children make inferences and become higher-level thinkers.

2. Quality early childhood science programs should encourage children to use all of their senses, and help children pay attention to the process they use to explore as well as the specific information they need to know. In addition to science inquiry skills, young children can begin to acquire a foundation of science concepts and knowledge on which they can build a clear understanding of their world. Early childhood teachers should look for opportunities to explore scientific concepts in all areas of the curriculum.

B. Encouraging scientific thinking

1. With very young children, infants and toddlers, relationships and early experiences are at the center of the scientific learning process. Through relationships, active exploration, and experiences, infants and toddlers begin to make discoveries about the world around them. They learn to figure out how things work, imitate others, and try out new behaviors. As infants grow older, they use attachment relationships with caregivers as a secure base for exploration. They also become interested in showing and giving things to adults. At the toddler age, children ask questions and share meaning with their caregivers. To encourage scientific thinking young children also need space and opportunities to explore, as well as materials that encourage learning and discovery. Provide a rich selection of age-appropriate, easily accessible toys and materials provides infants and toddlers with the foundation for learning and discovery.

2. As children move into the preschool years, they take on a more active role in searching out, describing, and explaining events that occur in the physical and natural world. They enjoy trying to see how things work, and when provided with a rich environment that includes a variety of materials, they will begin to ask questions, conduct experiments, and investigate new ideas. This creates opportunities for hypothesizing and predicting, observing, collecting information, and formulating conclusions. Their knowledge and understanding of science grows out of these opportunities to explore and relate new experiences to prior knowledge and personal experiences.

C. Standard 1: Develop the ability to carry out the scientific inquiry process (ask questions, predict, make observations, explain observations, and draw conclusions).

Cognitive Development and General Knowledge Strategies for Mathematics
Infants
<p>Sing songs or use finger plays that use numbers and counting (e.g., One, Two, Buckle My Shoe). During mealtimes, ask child, "Would you like some more?" Offer toys that have incremental sizes (e.g., nesting cups or stackable rings). Provide opportunities to notice patterns outdoors and comment on those (e.g., types of leaves or color of flowers). Allow infants time to try to solve problems on their own. Know each infant's tolerance for frustration and his or her developing abilities, and tailor your actions accordingly. Talk with young children about how they are playing or what they are doing. Use words that encourage children to count, compare, problem-solve, and make connections to the world around them (e.g., circle, square, bigger/smaller, up/down, 1-2-3...).</p> <p>Include objects in the environment that have a one-to-one relationship (e.g., containers with lids, markers with tops, etc.).</p>
Toddlers
<p>Teach concepts, such as colors and shapes, to toddlers using every day routines rather than using drill. For example, say, "Elliot, I see round circles on your shirt." Help toddlers understand number concepts in a natural context of play and daily routines. For example, point out the number of children who are swinging. Play games and sing songs that use numbers and counting (e.g., Five Little Monkeys). Use finger plays/songs to focus toddlers' attention. Read books that present basic math concepts in the context of everyday environments or routines (e.g., home, going to bed, etc.). Help toddlers understand shapes in the natural context of play and daily routines. For snack, serve round and square crackers and verbally label them as you offer choices: "We have round and square crackers for snack. Which would you like?" Begin to ask questions such as, "how many do you see?" or "how tall is your tower?"</p>
3-Year Olds
<p>Make materials available that can be sorted: big animals and baby animals, red blocks and yellow blocks. Let children find unique ways to combine toys and materials. For example, they might put small colored blocks in a pot and stir them as they "cook" in home living. Use this as an opportunity to count numbers or to talk about shapes. Observe children as they work with materials and comment on what you see them doing. Ask questions about concepts and relationships such as "Which pile do you think has more?" Verbalize information about concepts and relationships in the things you do during the day. "I can't find the one that matches this. Can you help me?" Point out concepts and relationships as the children work with material during their play: "This is the biggest truck we have. Which one is the smallest?"</p>
4-Year Olds
<p>Model mathematical behavior and activities. Think out loud as you use math to solve problems, explain an idea or plan for a project. Name groups of things in the environment using number and shape names (e.g., "Look at those three funny Jack-O-Lanterns. What shape are eyes?"). Ask children to reflect on their day and plan what they will do later that same day. Encourage children to talk about procedures (e.g., "My game piece is on the number 4." "I need to roll a two to catch up to you." "We still have a long way to go to the end!"). Provide opportunities for children to weigh everyday items that are located in the classroom (e.g., books, blocks, rock). Use a balance scale or a digital bathroom scale to compare different objects. Involve children in cooking activities. This will provide children with opportunities to measure out ingredients. It also is an opportunity to teach about fractions by cutting a cake or dividing a pie.</p>

Subdomain: Science (CS)

Standard CS 1: Develop the ability to carry out the scientific inquiry process (ask questions, predict, make observations, explain observations, and draw conclusions).

Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CS 1 Indicators				
<p>Explore objects, materials, and/or people using all the senses (e.g., picking objects up and putting them in mouth, focusing attention on an object or someone doing something, etc.). (0.1)</p> <p>Repeat actions that cause changes in objects or people (e.g., shake rattle to make a noise). (0.2)</p> <p>Occasionally use simple problem-solving strategies to explore objects. (0.3)</p> <p>Shows curiosity in living creatures, objects, and materials they can see, hear or feel. (0.4)</p>	<p>Use all five senses to observe and explore living things, objects, materials, and changes that take place in the immediate environment. (1.1)</p> <p>Notice cause and effect relationships (e.g., notice that a toy dropped from a high chair always falls to the floor makes a clanging sound when it hits the floor). (1.2)</p> <p>Repeat action to cause desired effect (e.g., hit button on a musical toy to make the music play, fill a bucket with sand, knock it over and watch the sand pour out). (1.3)</p> <p>Try different ways of solving a problem (e.g., pull the string on a toy that is stuck under something use a stick to dislodge a toy that is stuck). (1.4)</p> <p>Show interest and curiosity in living creatures, objects, and materials, and in changes they can see, hear or feel. (1.5)</p> <p>Put materials, substances, and/or objects together in new or unexpected ways to see what will happen (e.g., combine paint colors to see what happens, experiment to see what sticks on contact paper collage). (1.6)</p> <p>Verbally or non-verbally communicate what they see, hear or feel for living creatures, objects, materials or changes that happen in the environment. (1.7)</p>	<p>Use all five senses to observe living things, objects, materials, changes that take place, and relationships. (2.1)</p> <p>Talk about what they see, hear, and are able to touch in the environment with adult support. (2.2)</p> <p>Use simple tools to observe living things, objects and materials (e.g., magnifying glass, sifter). (2.3)</p> <p>Show an understanding of cause and effect relationships (e.g., pushes a stack of blocks to watch them fall). (2.4)</p> <p>Try alternative solutions to solve problems (e.g., pull the string on a toy that is stuck under something use a stick to dislodge a toy that is stuck). (2.5)</p> <p>Ask why and how questions about what they see, hear and feel when observing living creatures, objects and materials. (2.6)</p> <p>Put materials, substances, and/or objects together in new or unexpected ways to see what will happen (e.g., combine paint colors to see what happens, experiment to see what sticks on contact paper collage). (2.7)</p> <p>Talk about observations made about living creatures, objects, materials and changes that happen. (2.8)</p>	<p>Use all five senses to observe living things, objects, materials, changes that take place, and relationships. (3.1)</p> <p>Describe what they see, hear, and are able to touch in the environment and group materials/objects according to observed features. (3.2)</p> <p>Use simple tools to investigate and gather information on living things, objects, materials, and changes that take place (e.g., magnifying glass, sifter, magnets). (3.3)</p> <p>Show an understanding of cause and effect relationships that are observed immediately. (3.4)</p> <p>With prompting and support, talk about cause and effect relationships that are not immediately observable (e.g., that a plant wilted because it was not watered). (3.5)</p> <p>Ask why and how questions and offer ideas about living creatures, objects, materials and changes they see, hear and/or feel. (3.6)</p> <p>Participate in simple scientific investigations. (3.7)</p> <p>With prompting and support, talk about observations and results of simple experiments verbally and/or through drawings or graphs. (3.8)</p> <p>With prompting and support, talk about the meaning of words that are related to the scientific process (e.g., "observation," "experiment"). (3.9)</p>	<p>Use all five senses to observe, collect information, describe observations, classify based on observations, and form conclusions about what is observed. (4.1)</p> <p>Use equipment and tools to gather information and extend sensory observations of living things, objects, materials, changes that take place and relationships. (4.2)</p> <p>Show an understanding of cause and effect relationships and use this understanding to predict what will happen as a result of an action and to solve simple problems. (4.3)</p> <p>Use prior knowledge and experiences to generate questions, hypothesize, predict, and draw conclusions about living creatures, objects, materials and changes observed in the environment. (4.4)</p> <p>Conduct simple scientific experiments. (4.5)</p> <p>Collect, interpret, and communicate data and findings from observations and experiments verbally and/or in written formats. (4.6)</p> <p>With prompting and support, use scientific vocabulary words to describe steps in the scientific process (e.g., "observation," "experiment," "hypothesis," "conclusion"). (4.7)</p>

D. Standard 2: Acquire scientific knowledge related to physical science (properties of objects and materials).

Subdomain: Science (CS)				
Standard CS 2: Acquire scientific knowledge related to physical science (properties of objects and materials).				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CS 2 Indicators				
<p>Explore objects and materials in the indoor and outdoor environment (e.g., splash water, poke finger in the sand). (0.1)</p> <p>Show interest and curiosity in objects. (0.2)</p>	<p>Explore objects and materials in the indoor and outdoor environment (e.g., splash water, poke finger in the sand). (1.1)</p> <p>Use toys and other objects to make things happen (e.g., kick a ball to knock down some blocks, use a shovel to scoop sand into a bucket). (1.2)</p> <p>Watch how balls, toys and other objects move. (1.3)</p>	<p>Talk about observations of objects and materials in the indoor and outdoor environment. (2.1)</p> <p>Explore changes in objects and materials (e.g., see what happens when water and dirt are combined, observe how food changes when cooked, etc.). (2.2)</p> <p>Explore tools and simple machines that can be used to move, combine, or change objects and materials (e.g., a hammer, lever, pulley, ramp, etc.). (2.3)</p> <p>With adult supervision, explore sources of energy and how they affect objects and materials (e.g., lights, bells and other sources of sound). (2.4)</p> <p>Explore different ways balls, toys and other objects move. (2.5)</p>	<p>With prompting and support, observe and describe properties of objects and materials, and how objects and materials can be combined or can change from one form to another (e.g., ice melting to a liquid). (3.1)</p> <p>Explore and use simple tools and machines (e.g., hammers, levers, pulleys, ramps, etc.). (3.2)</p> <p>With prompting and support, observe and talk about sources of energy and how they affect objects and materials (e.g., lights, bells and other sources of sound, etc.). (3.3)</p> <p>Watch how balls, toys and other objects move and use different strategies to change their speed of motion. (3.4)</p>	<p>With prompting and support, observe and describe the properties of objects and materials and how they can be combined or can change from one form to another (solids, liquids, and gases). (4.1)</p> <p>Explore and use simple tools and machines (e.g., hammers, levers, pulleys, ramps). (4.2)</p> <p>Explore and describe sources of energy such as lights, bells and other sources of sound. (4.3)</p> <p>Experiment with balls, toys and other objects to see which objects move faster, what conditions make them move faster and what makes them move slower. (4.4)</p>

E. Standard 3: Acquire scientific knowledge related to life science (properties of living things).

Subdomain: Science (CS)				
Standard CS 3: Acquire scientific knowledge related to life science (properties of living things).				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CS 3 Indicators				
<p>Show interest and curiosity in plants and living creatures. (0.1)</p> <p>Look at and explore different parts of human body and living creatures. (0.2)</p>	<p>Explore the characteristics of living creatures (e.g., touches caregiver's face, looks intently at a leaf, or grabs the cat's tail). (1.1)</p> <p>Notice differences in characteristics of living creatures and plants (e.g., parts of a plant, animals with fur vs. scales, big and small people). (1.2)</p> <p>Participate in caring for living creatures and/or plants (e.g., feed fish, water plants in the classroom). (1.3)</p> <p>Notice and explore differences in characteristics of living creatures and plants (e.g., a little plant vs. a big plant, a baby animal vs. a full-grown animal). (1.4)</p> <p>Show where common parts of an animal or human are when named by adult (e.g., point to the dog's ear, show me your foot). (1.5)</p>	<p>With prompting and support, explore and talk about common characteristics of living creatures and plants. (2.1)</p> <p>Compare one living creature or plant with another and talk about the similarities and differences observed. (2.2)</p> <p>Care for living creatures and/or plants with direction from adults (e.g., feed the fish or hamster, water plants in the classroom). (2.3)</p> <p>Follow adults' guidance on how to act appropriately when near living things. (2.4)</p> <p>Talk about how very young plants and living creatures are different from full-grown plants and living creatures. (2.5)</p> <p>Use simple words to name common plants, animals, and human body parts when asked by an adult. (2.6)</p>	<p>With prompting and support, explore, observe, and describe a variety of living creatures and plants. (3.1)</p> <p>Sort living creatures and plants according to at least one characteristic (e.g., size, four-legged animals, hard/soft, etc.). (3.2)</p> <p>Care for living creatures and/or plants with some direction from adults (e.g., feed the fish or hamster, water plants in the classroom). (3.3)</p> <p>Follow adults' guidance on how to act appropriately with living creatures (e.g., hold the hamster gently, observe the fish without tapping the fish bowl). (3.4)</p> <p>Observe very young plants or living creatures over an extended period of time and describe how the plant/living creature changes. (3.5)</p> <p>Use basic vocabulary for plants, animals, and humans (e.g. some names of parts, characteristics). (3.6)</p>	<p>Explore, observe, and describe a variety of living creatures and plants. (4.1)</p> <p>Classify living creatures and plants into categories according to at least one characteristic. (4.2)</p> <p>Carry out classroom routines to care for living creatures and/or plants with limited direction from adults (e.g., feed the fish or hamster, water plants in the classroom). (4.3)</p> <p>Describe and follow guidelines for how to interact with living creatures appropriately (e.g., hold the hamster gently, observe the fish without tapping the fish bowl). (4.4)</p> <p>Describe plants' and living creatures' life cycles. (4.5)</p> <p>Use basic vocabulary to name and describe plants and living creatures. (4.6)</p> <p>Use basic vocabulary to describe similarities and differences between living creatures and plants. (4.7)</p>

F. Standard 4: Acquire scientific knowledge related to earth science (properties of the earth and objects in the sky).

Subdomain: Science (CS)				
Standard CS 4: Acquire scientific knowledge related to earth science (properties of the earth and objects in the sky).				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CS 4 Indicators				
Respond to the current weather conditions. (0.1)	Notice the current weather conditions. (1.1) Participate in stories, songs, and finger plays about seasons and the weather. (1.2) Observe and name objects found in the daytime or nighttime sky (e.g., sun, moon). (1.3) Participate in stories, songs, and finger plays about day and night. (1.4)	Talk about the common weather conditions of the current season (e.g., in summer, talk about how hot it is). (2.1) Point to types of clothing needed for current seasonal weather conditions. (2.2) Talk about the current weather conditions. (2.3) Notice features of the sky such as daylight, darkness, sun, moon, etc. (2.4) Identify the sky's different characteristics during night and day. (2.5)	Describe common weather conditions of the current season and how they compare to other seasons where they live (e.g., summer is hot, winter is cooler). (3.1) Name the types of clothing needed for different seasons. (3.2) Identify the characteristics of current weather conditions. (3.3) Describe objects found in the day or night time sky. (3.4) Talk about how the sky changes from night to day. (3.5)	Compare, and contrast seasonal changes where they live. (4.1) Describe the types of clothing needed for different seasons. (4.2) Describe the current weather and how weather conditions can change from day to day. (4.3) Describe major features of the earth and sky, and how they change from night to day. (4.4)

G. Strategies for Science

Cognitive Development and General Knowledge Strategies for Science
<p>Infants</p> <p>Give young infants faces to look at, especially the teachers. Infants attend to faces, either real or in picture form, longer than to any other images.</p> <p>Talk with young infants during caregiving times of feeding, bathing, diapering, and dressing. Explain what will happen, what is happening, and what will happen next.</p> <p>Provide very young infants a limited variety of soft, washable toys to be looked at and mouthed. Place varying sized objects within view and reach of infant.</p> <p>Vary the position of young infants so they can see more of their environment.</p> <p>Add interesting toys of different textures that are responsive to the action of the infant (e.g., soft balls, rattles, cloth toys, squeeze toys, plastic keys, and mobiles).</p> <p>Talk with infants about what they are experiencing through their senses. Say, "I know that you like the taste of apple sauce."</p> <p>Notice and comment when children apply knowledge to new situations.</p>
<p>Toddlers</p> <p>Add materials to environment that are slightly more challenging to toddlers (e.g., puzzles with more pieces or smaller pegs and balls).</p> <p>Talk to toddlers about how things are alike and different.</p> <p>Allow toddlers to figure out what to do with new play materials. Take time to watch rather than direct their actions.</p> <p>Provide equipment and materials that encourage problem-solving in both the indoor and outdoor environments (e.g., small wagons for moving things around the playground, riding toys with and without pedals, cardboard boxes for getting into and crawling out of).</p> <p>Allow toddlers to work on a problem uninterrupted.</p> <p>Watch what they do so you can identify when to step back and let them solve their own problems. Be ready to step in if a child is getting too frustrated.</p> <p>Begin to talk about solving problems. Have conversations with toddlers about problem-solving. For example, if it is raining and the group will not be able to go outside, talk to each other and the group of children about the problem and how to spend the time.</p>
<p>3-Year-Olds</p> <p>Let children find unique ways to combine toys and materials. For example, they might put small colored blocks in a pot and stir them as they "cook" in home living. Appreciate this creative use of materials as a part of cognitive development.</p> <p>Encourage children to make predictions by asking, "What would happen if" questions.</p> <p>Model problem-solving by offering children opportunities to help you</p>

<p>solve problems. Talk through the activity by saying, "The playground gate is locked. What should we do?"</p> <p>Ask open-ended questions that encourage children to predict what will happen. For example, as you hand Lizzie the bottle of liquid soap, ask, "What do you think will happen if you squirt just a little bit of soap into the water?"</p> <p>Take nature walks to observe changes in the seasons.</p> <p>Talk about the weather conditions daily.</p>
<p>4-Year-Olds</p> <p>Use appropriate scientific vocabulary (e.g., experiment, hypothesis, predict, etc.).</p> <p>Cook with children in your classroom, talk about what happens when foods are combined or heat is applied.</p> <p>Conduct experiments that use solids, liquids and gas (e.g., melting an ice cube and refreezing it or adding powdered drink mix to a glass of water).</p> <p>Ask open-ended questions when conducting simple experiments where children can predict and analyze outcomes.</p> <p>Provide soil and seeds so that children can grow their own plants. Ask children to document changes they observe through pictures or graphs.</p> <p>Use outdoor time to observe the weather conditions (e.g., talk about the clouds moving across the sky on a windy day).</p> <p>Include live animals and plants in the classroom, along with models, stuffed animals, pictures, and posters.</p>

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§307. Social Studies

A. Introduction

1. The primary purpose of social studies is to help young children become good citizens and deepen their understanding of the world around them. For young children, social studies begins with their awareness of self and their family. These early experiences and relationships help children understand who they are and their place within the family. Later, when children enter an early childhood program, they begin to develop a sense of community outside of the home. When children interact with people outside of the family-classmates, teachers, caregivers-their understanding of the world changes and expands to include others. This process gradually helps

children learn about the community in which they live and eventually they come to see themselves as citizens of that community.

2. In teaching social studies to young children, it is important that teachers build on what children already know and focus on ideas that are related to the child's immediate experience. For very young children-infants and toddlers who are just beginning to develop a sense of self and others-caregivers can encourage respect for others and provide opportunities for children to learn about other cultures. They can do this by reading books or singing

songs. As preschoolers, the focus may shift to helping children become good citizens within the classroom. Teachers can encourage this by asking children to put away toys and materials or by helping two children resolve a conflict. These and other skills described in the social studies standards and indicators are important aspects of young children's understanding of the world around them.

B. Standard 1: Develop the understanding that events happened in the past and how these events relate to one's self, family, and community.

Subdomain: Social Studies (CSS)				
Standard CSS 1: Develop the understanding that events happened in the past and how these events relate to one's self, family, and community.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CSS 1 Indicators				
Recognize familiar people. (0.1) Show anticipation of events in daily routine and activities. (0.2)	Remember familiar people (e.g., object permanence). (1.1) Show anticipation of events in daily routine. (1.2)	Respond to changes in routines or schedules (may be a positive or negative response). (2.1) Remember familiar people, events and objects (e.g., object permanence). (2.2) Demonstrate memory of reoccurring events through actions or words (e.g., "After lunch, I will hear a story."). (2.3)	Use words to describe events or activities that happened at an earlier time (e.g., "after we had snack" or "last night"). (3.1) Remember familiar people even though they may not have seen them for a while. (3.2) Describe the sequence of daily routines. (3.3) Participate in conversations about familiar people and/or events from the recent past (e.g., what the class did earlier in the day or week). (3.4)	Describe events, activities, and people from the past using appropriate vocabulary. (4.1) Initiate conversations about familiar places, people, and/or events from the past (e.g., where they lived previously, what they did during summer vacation, etc.). (4.2)

C. Standard 2: Describe people, events, and symbols of the past and present.

Subdomain: Social Studies (CSS)				
Standard CSS 2: Describe people, events, and symbols of the past and present.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CSS 2 Indicators				
Show interest in people. (0.1) Recognize familiar people. (0.2) Show interest in holiday, cultural, and/or birthday celebrations for family members and peers. (0.3)	Differentiate between person attached to/family members and others. (1.1) Participate in holiday, cultural and/or birthday celebrations for family members and peers. (1.2)	Name immediate family members, caregivers and peers. (2.1) Point out family members, caregivers and peers in a picture. (2.2) Recognize familiar people even though there may be slight differences in their appearance (e.g., hat or new haircut). (2.3) Participates in songs, fingerplays and stories about familiar objects associated with local, state and national symbols. (2.4) Participate in holiday, cultural and/or birthday celebrations related to family and the local community. (2.5)	Look at pictures of self or a family member, caregiver, or peer from the recent past and recognize the person even though she/he looks different from what she/he looks like in the present. (3.1) With prompting and support, identify symbolic objects and pictures of local, state, and/or national symbols such as the American flag or bald eagle. (3.2) Recognize familiar aspects of community/cultural symbols in books such as Grandma's Gumbo and songs (e.g., Alligator). (3.3) Participate in and talk about local cultural events, holidays and/or celebrations. (3.4)	Identify similarities/differences between students, their families, and classroom members with those of the past. (4.1) Identify and name some local, state, and national symbols. (4.2) Describe familiar elements of the local community and culture. (4.3) Describe local, state, and national cultural events, celebrations, and holidays. (4.4)

D. Standard 3: Develop an awareness of geographic locations, maps, and landforms.

Subdomain: Social Studies (CSS)				
Standard CSS 3: Develop an awareness of geographic locations, maps, and landforms.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CSS 3 Indicators				
<p>Explore the immediate environment (inside and outside with adult supervision). (0.1)</p>	<p>Move from one area to another to explore the environment. (1.1) Assist with classroom clean-up routines such as picking up toys. (1.2)</p>	<p>Recognize some familiar places, such as child care, home, store, relative's house. (2.1) Know the location of objects and places in familiar environments (e.g., goes to shelf where toys are stored when asked to get a specific toy). (2.2) Play with and explore items such as maps or simple diagrams of the classroom. (2.3) Help to throw away trash when asked. (2.4) Assist adult with daily clean-up routines (e.g., put manipulatives back in to bucket, throw napkin into trash, etc.). (2.5)</p>	<p>Participate in walks and field trips to different places in the community. (3.1) Describe familiar places such as the home, center/family day home, etc. (3.2) Describe the location of items/areas in the classroom and places in home and community. (3.3) Draw or use blocks or other materials to represent places or things he/she has seen. (3.4) Recognize and name a map and a globe. (3.5) Look at a simple map and find various features/parts of the map with support and guidance. (3.6) Participate in conversations about how people can take care of the natural environment through activities (e.g., throwing away trash, recycling, planting trees, and putting out bird feeders). (3.7) Identify and use appropriate trash receptacles independently. (3.8) Participate in daily clean-up activities. (3.9)</p>	<p>CSS 3 Indicators Demonstrate geographic knowledge of the geographic features of the classroom and community. (4.1) Create representations of places, landforms, and roads he/she has seen through drawings and play activities. (4.2) Recognize a globe/map as a representation of the earth. (4.3) Use a simple map to find specific locations within a familiar environment (e.g., areas within the classroom). (4.4) With support and guidance, create a simple drawing that shows the relative location of specific objects and/or features in a familiar environment such as a classroom or playground. (4.5) Demonstrate care of the environment through activities (e.g., throwing away trash, recycling, planting trees, and putting out bird feeders). (4.6) Participate in daily clean-up activities. (4.7)</p>

E. Standard 4: Demonstrate awareness of culture and other characteristics of groups of people.

Subdomain: Social Studies (CSS)				
Standard CSS 4: Demonstrate awareness of culture and other characteristics of groups of people.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CSS 4 Indicators				
<p>Respond to music from various cultures; especially those from their own culture (e.g., lullabies or simple songs). (0.1) Look at books or pictures of homes that are similar to/found in their own community. (0.2)</p>	<p>Participate in simple ways in rhymes and music from various cultures. (1.1) Listen for short periods of time and look at pictures of shelters/ homes in different geographic regions. (1.2)</p>	<p>Participate in rhymes and music from various cultures. (2.1) Communicate about the home that she/he lives in. (2.2) Listen to books and stories and look at pictures of shelters/homes in other geographic regions. (2.3)</p>	<p>Participate in music, dance, and other traditions from various cultures. (3.1) Show and talk about objects, food, and customs from own family or culture. (3.2) Identify homes that are similar to and/or different from her or his own home. (3.3) With prompting and support, describe pictures of shelters/homes in other geographic regions. (3.4) Identify the characteristics of one's own home. (3.5)</p>	<p>Explore music, dance, dress, foods, and traditions of own family and other cultures. (4.1) Discuss shelters/ homes in various geographic regions. (4.2)</p>

F. Standard 5: Develop an awareness of the importance of rules and responsibilities within their community and the actions/behaviors necessary for effective citizenship.

Subdomain: Social Studies (CSS)				
Standard CSS 5: Develop an awareness of the importance of rules and responsibilities within their community and the actions/behaviors necessary for effective citizenship.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CSS 5 Indicators				
<p>Notice others carrying out routines and responsibilities. (0.1)</p> <p>Respond to changes in adult's tone of voice, expression, or visual cues (e.g., shaking head). (0.2)</p>	<p>Participate in simple routines with adult support (e.g., putting away toys or handing out napkins). (1.1)</p> <p>Respond to guidance when redirected or given one word instructions. (1.2)</p> <p>Notice community workers they see on a regular basis (e.g., persons who collect the garbage, etc.). (1.3)</p>	<p>With adult support and guidance, carry out some routines and responsibilities in the classroom (e.g., picking up toys, cleaning up table, watering plants setting out snack, etc.). (2.1)</p> <p>Follow rules with adult support. (2.2)</p> <p>Accept redirection from adult. (2.3)</p> <p>Identify simple rules. (2.4)</p> <p>Identify various familiar workers in the community (e.g., doctor, nurse). (2.5)</p>	<p>Describe classroom and/or home responsibilities (e.g., "I pick up toys" or "I set the table."). (3.1)</p> <p>With prompting from adult, carry out routines and responsibilities in the classroom (e.g., cleaning up, care of plants and/or animals, setting out snack). (3.2)</p> <p>Follow many rules with little support. (3.3)</p> <p>Identify rules that are used at home or in the classroom. (3.4)</p> <p>Tell why rules are important. (3.5)</p> <p>Describe the roles of various familiar community helpers/workers. (3.6)</p> <p>Imitate the roles of familiar community workers. (3.7)</p>	<p>Recognize their responsibility as a member of a family and classroom. (4.1)</p> <p>Independently carry out specific responsibilities in the classroom (e.g., cleaning up, checking the temperature outside for the group, handing out snack, etc.). (4.2)</p> <p>Follow rules that have been established. (4.3)</p> <p>Participate in conversations about the importance of rules/consequences, rights of self, and rights of others. (4.4)</p> <p>Identify workers and their roles as citizens within the community. (4.5)</p>

G. Standard 6: Demonstrate an awareness of basic economic concepts.

Subdomain: Social Studies (CSS)				
Standard CSS 6: Demonstrate an awareness of basic economic concepts.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
CSS 6 Indicators				
<p>Express preferences for food, toys, etc. through vocalizations, gestures and facial expressions. (0.1)</p>	<p>Communicate desire for objects and/or persons that are in the classroom or home. (1.1)</p>	<p>Use play money in play activities. (2.1)</p> <p>Use props related to buying and selling items during play (e.g., a toy cash register, play money, etc.). (2.2)</p> <p>Indicate wants and needs through words and gestures. (2.3)</p>	<p>Demonstrate an awareness of uses of money. (3.1)</p> <p>Demonstrate an understanding of the process of buying and selling during play by using props related to buying and selling the way they typically are used by adults. (3.2)</p> <p>Express wants and needs. (3.3)</p>	<p>Demonstrate awareness of the purpose of money through play activities. (4.1)</p> <p>Demonstrate the role of buyers and sellers in play activities. (4.2)</p> <p>Participate in conversations about wants and needs. (4.3)</p>

H. Strategies for Social Studies

Cognitive Development and General Knowledge Strategies for Social Studies
Infants
<p>Take and use photos of each child. Involve them in making a photo album to place in the library or home living area. Use photos on bulletin boards that are placed at child's eye level.</p> <p>Add realistic daily life props to the environment (e.g., dolls, simple doll clothing, blankets, telephones, and simple dress-up clothes).</p> <p>Include family photos in a variety of ways. Compile a scrapbook or photo album of family members and of family celebrations, for example.</p> <p>Include opportunities for children to know they are valued members of the total group in your care. For example, sing songs and play games that include each child's name. Sing "Where is Adam? Where is Adam?" to the tune of "Where Is Thumbkin?"</p> <p>Provide opportunities for children to explore their environment indoors and outdoors.</p> <p>Learn as much as you can about the cultures of the families in your program. Provide books, pictures, toys, music, etc. that are familiar to children. This brings their cultures into the play area in positive ways.</p>
Toddlers
<p>Share books with toddlers that support attachment to family such as <i>Ten, Nine, Eight</i> by Molly Bang and <i>Runaway Bunny</i> by Margaret Wise</p>

<p>Brown.</p> <p>Talk about the specific roles of family members, such as grandmother takes care of baby at night or big brother helps with getting dressed.</p> <p>Take children for walks around the neighborhood. Use this as an opportunity to point out landmarks and signs in the environment.</p> <p>Provide opportunities for cooperative play like a rocking boat or a wheeled toy that accommodates two children.</p> <p>Talk with children about the work places that parents go after they drop off children.</p> <p>Include a variety of workplace props in the dramatic play area.</p> <p>Model the use of words to express a need. Offer the appropriate response to problems or conflicts, such as, "Ask Aidan if you can use the truck."</p>
3-Year-Olds
<p>Invite family members to participate in school or classroom events.</p> <p>Talk about similarities and differences in terms of dress, food, transportation, etc. as seen in books and pictures.</p> <p>Talk about similarities and differences that are represented by the children in your classroom.</p> <p>Read books and talk about community workers and their jobs.</p> <p>Cultivate a school garden where children can plant seeds and see how plants grow and change over time.</p> <p>Take pictures of things that change over time and display them in the classroom (e.g., seeds growing into a flower).</p> <p>Include materials in the dramatic play area that will encourage children</p>

to pretend that they are a community worker (e.g., firemen's hat or postal workers mailbag) or that they run a business (e.g., play money and grocery bags).

Share children's pleasure in learning and discovering new things through daily routines and their play, both indoors and outdoors. Take children to community events and places (e.g., parks, playgrounds, petting zoo, farmer's market, and library to learn about the world).

4-Year-Olds

Involve children's families in every aspect of the program so that children can observe and learn about other's personal characteristics, experiences, and cultures.

Demonstrate respect for various cultures and languages. Make sure that children's home languages and cultures are reflected in books, signs, and learning experiences.

Write class books about children's families, their homes, their mealtimes, their pets, and other aspects of their lives. Discuss what is the same and different about the children's families.

Engage children in long-term projects or a study of their community. Begin with children describing what they already know and then identifying what questions they have and ways to find answers.

Take trips, invite visitors, make observations, gather and record data about what they learn.

Use various media (e.g., blocks, clay, drawings, or photos to represent and map the classroom, center, neighborhood, or community).

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Chapter 4. Language and Literacy Development

§401. Introduction

A. The Language and Literacy domain includes children's listening, speaking, writing, thinking, and reading development. These skills are critical to children's success in school, as well as their success later in life. Although children continue to develop language and literacy skills throughout their lives, what they learn in the early years establishes the foundation for later language, reading, and writing skills. Young children who have rich language and literacy experiences early in life are less likely to have later difficulties learning to read.

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§403. Speaking and Listening

A. Children enter the world with the capacity to communicate. Before babies utter their first words, they are preparing to use language in many ways. As children grow and change, however, their communication needs change as well. Communicating with a preschooler is very different than communicating with a toddler or an infant. Infants and toddlers are learning the basics of communication and how important it is. Preschoolers are well on the way to becoming fluent communicators. They have learned a great deal about the purposes and conventions of communication. It's important for adults to support these changes so that children can continue to grow as skillful communicators. Singing songs and reciting simple nursery rhymes are one way to promote children's language development. They help to give children a sense of the natural rhythm of the language and its sentence patterns.

B. A solid foundation in language development in the years before a child enters school will promote success in reading and writing in the future. Some studies have linked the number of words a child hears before the age of four to

future academic achievement. The more often parents and caregivers talk to their children in everyday situations, the more opportunities children have to learn new words and practice their communication skills.

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§405. Reading

A. Reading begins long before children can pick up a book and read it to you. When a baby turns his or her head to the sound of a parent's voice, he/she is beginning to pay attention to language, language that will later be read from print. As children grow, their literacy related behaviors grow and change as well. Behaviors that foreshadow independent reading begin very early. For example, babies as young as 7-10 months may coo and babble while pointing at pictures in a book-this is a sign that they are interested in the book.

B. As children move into the toddler or early preschool years, other reading-like behaviors begin to develop. These behaviors may include pretending to read or "reading" environmental print, such as a logo that they are familiar with. Later, the child may "read" a book by re-telling a familiar story and, especially as he or she approaches preschool age, may sit for longer periods of time and pretend to read a book independently. This is an exciting sign that he or she is beginning to understand what reading is about. It is a step forward on the road to literacy.

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§407. Writing

A. When we think about early literacy, most often what comes to mind is reading. However, writing is an important part of early literacy as well. Learning to read and learning to write are both important literacy processes, and they support each other—children with strong writing skills often have strong reading skills and vice versa.

B. Writing, as with other accomplishments of young children, develops in stages that are a part of the normal development of writing ability. Children become competent writers as they move through these stages:

1. Stage 1 - Random Scribbling: (2-and 3-year olds). Children make marks on paper with little muscular control.

2. Stage 2 - Controlled Scribbling: (3-year-olds). Children "write" across the paper in linear fashion, repeating patterns over again, showing increased muscular control.

3. Stage 3 - Letter-like Forms: (3-and 4-year-olds). Children make mock letters. These are written lines of letters that have letter characteristics, but they are misshapen and written randomly. They pretend they are writing; in their work they separate writing from drawing. They have purpose to their letter-like forms.

4. Stage 4 - Letter and Symbol Relationship: (4-year-olds). Children write letters to represent words and syllables. They can write their names. They recognize the word that represents their name. They can copy words, but often reverse one or more of the letters they are copying.

5. Stage 5 - Invented Spelling: (4-and 5-year olds). Children make the transition from letter forms to invented spelling. This requires organization of letters and words on the page. They use a group of letters to form a word. Many

of the letters will be consonants. They understand that letters relate to sounds. Some punctuation appears. They can copy words from their environment.

6. Stage 6 - Standard Spelling: (5-, 6-, and 7-year-olds). Most of the words the children use are written correctly; some children add punctuation. They organize their words in lines with spaces between the words; they move from left-to-right, and from the top of the page to the bottom.

NOTE: Adapted from: The Portfolio and Its Use: A Road Map for Assessment by Sharon MacDonald.

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§409. English Language Learners (ELL)

A. Children whose families speak a different language in the home learn language similarly to English-speaking children, but may face some unique challenges as we try to help them learn skills needed to communicate successfully in school. As the United States becomes increasingly diverse, more and more you must find a way to integrate children whose first language is not English into their classrooms. "English language learners" means that children are working to learn a second language (English) while continuing to develop their first (or home) language. It is important for early childhood you to recognize the need for children and families to maintain their home language and culture, while beginning to acquire the language of the learning environment.

B. Children's ability to acquire a second language is influenced by many factors including the extent to which the child is exposed to the new language; the child's temperament; and the child's need and/or opportunity to use

the language to communicate. Research indicates that there are four stages of development through which a child progresses in learning a second language:

1. Uses home language in second language setting.
2. Relies on non-verbal communication (e.g., gestures, facial expressions).
3. Begins to use telegraphic (two-word sentence that conveys an action or possession such as "get milk" or "mommy's tummy") and formulaic speech (refers to a phrase that the child may use without completely understanding its function such as "gimme cookie").
4. Achieves productive language use (that is, the child begins to construct his/her own phrases and sentences in the new language). It can take years for children to reach the productive language use stage, and it is essential that children's language development in their home language and their language development in English to both be supported for them to make progress in this domain as well as the other domains described in these Standards

C. In summary, it is difficult to separate language and communication from early literacy skills because they are so inter-twined with one another. An environment with many conversations and one where books, stories, writing activities, songs, rhymes and fingerplays are enjoyed many times during the day lays the foundation for both language and literacy skills and for later school success. Therefore, each of the standards and indicators described in this document is important for children's progress.

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§411. Speaking and Listening Standards

A. Standard 1: Comprehend or understand and use language.

Subdomain: Speaking and Listening					
Standard LL 1: Comprehend or understand and use language.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 1 Indicators					Speaking and Listening (SL)
Show interest in adult speech. (0.1) Look in the direction of sound. (0.2) Recognize words for familiar items such as "cup" or "bottle". (0.3) Engage in turn-taking. (0.4) Coo when spoken to. (0.5) Smile in response to social stimulation. (0.6) Know own name by responding when name is spoken. (0.7) Respond to the sound of language and the steady rhythm of words. (0.8) Get attention or express needs through	Attend to adult language. (1.1) Respond to adult's facial expressions (e.g., stops throwing blocks after a stern look from adult). (1.2) Identify familiar people or objects when asked. (1.3) Follow simple commands (e.g., "Come here"). (1.4) Use facial expression to show excitement or distress. (1.5) Use gestures and words to communicate needs. (1.6) Repeat familiar words. (1.7) Respond to simple	Identify some body parts when asked. (2.1) Understand simple questions such as, "Where is your blanket?" (2.2) Show understanding of words through response (e.g., going to get a diaper when told it is time for diaper change). (2.3) Use short phrases combined with gestures and intonation to communicate. (2.4) Ask "what's that?" questions repeatedly. (2.5) Engage in short conversations with others. (2.6)	Follow two-step directions. (3.1) Demonstrate understanding of simple questions and requests. (3.2) Answer some simple "who", "what" and "where" questions. (3.3) Listen and respond attentively to simple conversations. (3.4) Use phrases and/or simple sentences and questions. (3.5) Ask "why" questions. (3.6) With prompting and support, act out familiar stories, rhymes and fingerplays. (3.7) Use phrases and/or	Listen and respond to questions about print read aloud or information presented orally or through other media, including music and videos. (4.1) Listen and respond attentively to conversations. (4.2) With guidance and support from adults, follow agreed upon rules for discussions (e.g. listening to others, and taking turns speaking about topics and print under discussion). (4.3) Actively participate in role-playing, creative dramatics, fingerplays, nursery rhymes, and	SL 1 Participate in collaborative conversations with diverse partners about kindergarten topics and texts with peers and adults in small and larger groups. a. Follow agreed-upon rules for discussions (e.g., listening to others and taking turns speaking about the topics and texts under discussion). b. Continue a conversation through multiple exchanges.

Subdomain: Speaking and Listening					
Standard LL 1: Comprehend or understand and use language.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
sound, facial expressions, and movements. (0.9) Imitate different sounds. (0.10)	rhymes and fingerplays. (1.8) Use hand gestures to show recognition of a song. (1.9) Use one to two words to communicate (ask questions or signal needs) so that the communication is understood by family and familiar adults most of the time. (1.10)	Understand a pause in the conversation is a signal to take a turn. (2.7) Share experiences using simple 2-3 word combinations. (2.8) Repeat phrases or key words to simple rhymes and fingerplays. (2.9) Imitate words and actions to simple rhymes and fingerplays. (2.10) Combine two to three words to make phrases, simple sentences or to ask questions, such as "Where Mommy?" (2.11) Is easily understood by family and familiar adults. (2.12)	simple sentences that convey a complete thought, "Tommy ate the cookie," that is easily understood by family and most people outside the home. (3.8) Ask questions that may incorporate expanding vocabulary. (3.9).	choral speaking. (4.4) Speak audibly and use words, phrases, and/or sentences to express a complete thought that can be clearly understood by most people. (4.5) Ask questions about a specific topic, activity, and/or text read aloud. (4.6)	presented orally or through other media by asking and answering questions about the details and requesting clarification if something is not understood. Language (L) L 1 Demonstrate command of the conventions of standard English grammar and usage when writing or speaking. b. Use frequently occurring nouns and verbs. c. Form regular plural nouns orally by adding /s/ or /es/ (e.g., dog, dogs; wish, wishes). f. Produce and expand complete sentences in shared language activities.

B. Standard 2: Comprehend and use increasingly complex and varied vocabulary.

Subdomain: Language					
Standard LL 2: Comprehend and use increasingly complex and varied vocabulary.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 2 Indicators					Language (L)
Engage in brief moments of joint attention to imitate positional words through language, music and sounds. (0.1) Recognize names of familiar people and objects. (0.2) Use gestures and sounds to communicate needs. (0.3)	Demonstrate positional words with body movement or through gestures. (1.1) Use words such as "mama" and "dada". (1.2) Attempt to say new word offered by an adult (e.g., "That is a bird, can you say bird?"). (1.3)	With prompting and support, respond to opposite words during games and activities. (2.1) Sing and act out motions using a variety of positional words. (2.2) Talk about the actions of others. (2.3) Use pronouns "me", "you", and "I". (2.4) Use name of self and of other people. (2.5) Name some objects or people in books. (2.6) Use simple sentences and questions that incorporate expanding vocabulary. (2.7)	With prompting and support, demonstrate understanding of simple concepts such as opposites and positions. (3.1) Demonstrate an understanding of and begin using some new vocabulary introduced through conversations, activities, or listening to texts read aloud. (3.2)	Demonstrate understanding of a variety of concepts, such as opposites, positions, and comparisons. (4.1) Use new vocabulary acquired through conversations, activities, or listening to texts read aloud. (4.2)	L 1: Demonstrate command of the conventions of standard English grammar and usage when writing or speaking. e. Use the most frequently occurring prepositions (e.g., to, from, in, out, on, off, for, of, by, with). L 6: Use words and phrases acquired through conversations, reading and being read to, and responding to texts.

C. Standard 3: Develop an interest in books and their characteristics.

Subdomain: Reading: Literature and Information in Print					
Standard LL 3: Develop an interest in books and their characteristics.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 3 Indicators					Reading Standards for Literature (RL)
<p>Manipulate books by holding, chewing, banging, etc. (0.1)</p> <p>Look at picture books with interest, sometimes pointing at objects. (0.2)</p> <p>Engage in joint attention to books, language, music and sounds. (0.3)</p>	<p>Look at books independently and with an adult. (1.1)</p> <p>Select a book to look at and/or take it to an adult to read. (1.2)</p> <p>Attends to picture books on own and with an adult for sustained periods of time. (1.3)</p> <p>Turn pages of a book held by an adult, but not necessarily from front to back or page by page. (1.4)</p>	<p>Identify a favorite book by its cover and find a favorite book on the shelf by its cover when prompted. (2.1)</p> <p>Rotate book to get picture right side up. (2.2)</p> <p>Hold a book and looks at one page at a time. (2.3)</p> <p>Pretends to read. (2.4)</p>	<p>Find a specific book by looking at the cover. (3.1)</p> <p>Identify the front cover of a book. (3.2)</p> <p>Hold book properly and look at pages of a book from left to right, pretending to read. (3.3)</p> <p>Imitate teacher reading a story. (3.4)</p> <p>With prompting and support, demonstrate and understand that people write stories and draw pictures in books. (3.5)</p> <p>Shows an interest in illustrations. (3.6)</p>	<p>Demonstrates how books are read, such as front-to-back and one page at a time. (4.1)</p> <p>With prompting and support, describe the role of the author and illustrator of a text. (4.2)</p>	RL 6:
					With prompting and support, name the author and illustrator of a story and define the role of each in telling the story.
					Reading Standards for Informational Text (RI)
					RI 5
					Identify the front cover, back cover, and title page of a book.
RI 6					
Name the author and illustrator of a text and define the role of each in presenting the ideas or information in a text.					

D. Standard 4: Comprehend stories and information from books and other print materials.

Subdomain: Reading: Literature and Information in Print					
Standard LL 4: Comprehend stories and information from books and other print materials.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 4 Indicators					Reading Standards for Literature (RL)
<p>Engage in brief moments of joint attention to books, language and sounds. (0.1)</p> <p>Respond and attend to stories that have been read previously. (0.2)</p>	<p>Identify pictures of specific characters, scenes, or objects that are part of a book when asked. (1.1)</p> <p>Look to an adult for the name of an object or character portrayed in a picture within a book. (1.2)</p> <p>Anticipate familiar elements in a story as indicated by gestures or facial expression (e.g., show of excitement, and mimicking sounds). (1.3)</p> <p>With prompting and support, point to pictures of favorite characters or familiar objects in a book. (1.4)</p> <p>Point to a picture or illustration in a story book and look to an adult for the name of the object or character. (1.5)</p>	<p>Answer simple questions about pictures that go with print read aloud. (2.1)</p> <p>Recognize when an adult misreads or skips a section of a familiar story and offer correction. (2.2)</p> <p>Make up stories while turning pages of book. (2.3)</p> <p>Recite simple phrases or words from familiar stories (e.g., Chicka Chicka Boom Boom). (2.4)</p> <p>With prompting and support, name or identify 1-2 character(s) from a story and or 1-2 pieces of information remembered from and informational text read aloud. (2.5)</p> <p>Is attentive when an adult explains a new word or introduces a new concept. (2.6)</p> <p>Point to the picture on a page and ask, "What's that?" (2.7)</p> <p>Look at a picture or illustration and describe what is happening (e.g., "Boy running"). (2.8)</p> <p>With prompting and support, demonstrate understanding of what</p>	<p>Answer simple questions about print that has been read aloud several times. (3.1)</p> <p>Retell a simple story with pictures or other props to use as prompts. (3.2)</p> <p>With prompting and support, identify characters from a story and information from an informational text read aloud. (3.3)</p> <p>With prompting and support, talk about unknown vocabulary words in a text or story read aloud. (3.4)</p> <p>Distinguish between real objects and play objects (e.g. distinguish between a real apple and a toy apple). (3.5)</p> <p>Use pictures and illustrations of a text to tell a story. (3.6)</p> <p>With prompting and support, talk about or draw a character, setting, event, or idea in a text read aloud. (3.7)</p> <p>Demonstrate understanding of what will happen next in familiar stories. (3.8)</p>	<p>With prompting and support, ask and answer questions about print that is read aloud. (4.1)</p> <p>With prompting and support, retell parts of a favorite story in sequence (first, next, and last). (4.2)</p> <p>With prompting and support, identify characters and some events from a story and several pieces of information from a text read aloud. (4.3)</p> <p>With prompting and support, ask and answer questions about unknown words in a text read aloud. (4.4)</p> <p>Listen to stories or text read aloud and use new vocabulary words in follow-up conversations and activities. (4.5)</p> <p>Recognize that texts can be stories (make-believe) or real (give information). (4.6)</p> <p>With prompting and support, describe what person, place, thing, or idea in the text an illustration depicts. (4.7)</p> <p>With prompting and support, discuss basic</p>	RL 1
					With prompting and support, ask and answer questions about the key details in a text.
					RL 2
					With prompting and support, retell familiar stories, including key details.
					RL 3
					With prompting and support, identify characters, settings, and major events in a story.
					RL 4
					Ask and answer questions about unknown words in a text.
					RL 5
Recognize common types of texts (e.g., storybooks, poems).					
RL 7					
With prompting and support, describe the relationship between illustrations and the story in which they appear (e.g., what moment in a story an illustration depicts).					
RL 9					
With prompting and support, compare and					

Subdomain: Reading: Literature and Information in Print					
Standard LL 4: Comprehend stories and information from books and other print materials.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
		will happen next in familiar stories. (2.9)		similarities and differences in print read aloud, including characters, settings, events, and ideas. (4.8) Based on the title and/or pictures/illustrations, predict what might happen in a story before it is read. (4.9)	contrast the adventures and experiences of characters in familiar stories. RL 10 Actively engage in group reading activities with purpose and understanding. Reading Standards for Informational Text (RI) RI 4 With prompting and support, ask and answer questions about unknown works in a text. Language (L) L 6 Use words and phrases acquired through conversations, reading and being read to, and responding to text.

E. Standard 5: Demonstrate understanding of the organization and basic features of print.

Subdomain: Reading: Foundational Skills					
Standard LL 5: Demonstrate understanding of the organization and basic features of print.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 5 Indicators					Reading: Foundational Skills (RF)
Engage in brief moments of joint attention to books, language, music, and sounds. (0.1) Respond or show excitement when hear own name. (0.2)	Point to pictures and words in book. (1.1) Recognize and respond to own name. (1.2)	Rotate book to get picture right side up. (2.1) Look at one page at a time. (2.2) Recognize a word with the first letter of a child's name in it as being connected to the child's name (e.g., pointing to a word with the first letter of a child's name in it and the child says, "That's my name."). (2.3) Identify familiar logos in the environment (e.g., the child asks for French fries when seeing the "Golden Arches"). (2.4) Associate symbols or pictures with objects or places in the environment. (2.5)	With prompting and support, track across a page or along printed words from top to bottom and left to right. (3.1) Identify name on personal property. (3.2) With prompting and support, demonstrate an understanding that letters are combined to make words. (3.3) Name at least 10 of the 52 upper- and lower-case letters of the alphabet (any combination of upper- and lower-case letters). (3.4) Identify some letters in own name. (3.5)	With prompting and support, demonstrate that print is read left to right and top to bottom. (4.1) With limited guidance, track across a page or along printed words from top to bottom and left to right. (4.2) With prompting and support, identify own first name in print among two to three other names; point to printed name when asked. (4.3) With prompting and support, identify various features in print (e.g., words, spaces, punctuation, and some upper- and lower-case letters). (4.4) Name at least 26 of the 52 upper-and/or lower-case letters of the alphabet. (4.5)	RF 1 Demonstrate understanding of the organization and basic features of print. a. Follow words from left to right, top to bottom, and page to page. b. Recognize that spoken words are represented in written language by specific sequences of letters. c. Understand that words are separated by space in print. d. Recognize and name all upper- and lowercase letters of the alphabet.

F. Standard 6: Demonstrate understanding of different units of sound in language (words, syllables, phonemes)

Subdomain: Reading: Foundational Skills					
Standard LL 6: Demonstrate understanding of different units of sound in language (words, syllables, phonemes).					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 6 Indicators					RF 2
<p>Coo and babble to self and others. (0.1)</p> <p>Imitate sounds made by caregiver. (0.2)</p> <p>Make vowel-like sounds or a variety of consonant and vowel sounds. May say first word. (0.3)</p> <p>Show recognition of familiar voices, names and environmental sounds. (0.4)</p>	<p>Make vowel-like sounds or a variety of consonant and vowel sounds. (1.1)</p> <p>Imitate inflection. (1.2)</p> <p>Communicate using sounds, words and /or gestures. (1.3)</p> <p>Copy some motions of adults during fingerplays. (1.4)</p> <p>Participate in sound and word play. (1.5)</p> <p>Say first word. (1.6)</p>	<p>Participate in group rhymes and songs using words. (2.1)</p> <p>Recognize sounds in the environment (e.g., a horn honking, a train whistle blowing, dogs barking, etc.). (2.2)</p> <p>Participate in word play games and repeat sounds made by adults. (2.3)</p> <p>Participate in sound and word play by imitating the movements and sounds of adults. (2.4)</p> <p>Repeat familiar words. (2.5)</p> <p>Use words combined with gestures and intonations to communicate. (2.6)</p>	<p>With prompting and support, recognize matching sounds and rhymes in familiar words or words in songs. (3.1)</p> <p>With prompting and support, segment a spoken sentence into the individual words using actions (e.g., clap or stomp for each word). (3.2)</p> <p>With prompting and support, show an awareness of beginning sounds in words. (3.3)</p> <p>With prompting and support, attend to activities or word play that emphasizes beginning sounds in words. (3.4)</p> <p>Engage in word play activities in songs and rhymes. (3.5)</p>	<p>With prompting and support, recognize and produce rhyming words. (4.1)</p> <p>With prompting and support count, pronounce, blend, and segment syllables in spoken words using actions. (4.2)</p> <p>With prompting and support, orally blend onset and rime in single syllable spoken words. (4.3)</p> <p>Repeat alliteration during word play in order to recognize words with a common initial (first) sound. (4.4)</p>	<p>Demonstrate understanding of spoken words, syllables, and sounds (phonemes).</p> <p>a. Recognize and produce rhyming words.</p> <p>b. Count, pronounce, blend, and segment syllables.</p> <p>c. Blend and segment onsets and rimes of single-syllable words.</p> <p>d. Isolate and pronounce the initial, medial vowel, and final sounds (phonemes) in three-phoneme (consonant-vowel-consonant, or CVC) words. *(This does not include CVCs ending with /l/, /r/, or /x/.)</p> <p>e. Add and substitute individual sounds (phonemes) in simple, one-syllable words to make new words.</p>

G. Standard 7: Develop familiarity with writing implements, conventions, and emerging skills to communicate through written representations, symbols, and letters.

Subdomain: Writing					
Standard LL 7: Develop familiarity with writing implements, conventions, and emerging skills to communicate through written representations, symbols, and letters.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
LL 7 Indicators					Writing (W)
<p>Tightly grasp objects when placed in hands. (0.1)</p> <p>Release object purposefully. (0.2)</p> <p>Use pincer grasp to pick up small objects. (0.3)</p> <p>Preference for using right or left hand is emerging. (0.4)</p> <p>Transfer objects from hand to hand. (0.5)</p>	<p>Dot or scribble with crayons, may progress to vertical lines. (1.1)</p> <p>Holds marker or crayon with the fist. (1.2)</p> <p>Scribble or make random marks on paper. (1.3)</p> <p>Scribble, as if writing. (1.4)</p>	<p>Scribble and/or produce mock letters with markers, crayons, paints, etc. and imitate marks. (2.1)</p> <p>Transition from holding a crayon or marker in their fist to holding it between thumb and forefinger. (2.2)</p> <p>Scribble with intent to represent something observed and/or convey a message. (2.3)</p> <p>Show interest in using writing for a purpose. (2.4)</p> <p>Make repeated marks on the page using circles, horizontal, and vertical lines. (2.5)</p> <p>Recognize difference between picture and print. (2.6)</p> <p>Explore interactive toys that are models of</p>	<p>Experiment with a variety of writing tools, materials, and surfaces. (3.1)</p> <p>Use early stages of writing to form shapes and letter-like symbols to convey ideas. (3.2)</p> <p>Engage in tactile experiences creating letters and other forms. (3.3)</p> <p>Imitate marks made by adult or older child (approximations). (3.4)</p> <p>Describe picture and/or dictate story to caretaker. (3.5)</p> <p>With guidance and support from adults, participate in acts that promote the development skills associated with the use of digital tools (e.g., learning games). (3.6)</p>	<p>Use a variety of writing tools in an appropriate manner showing increasing muscular control. (4.1)</p> <p>Use a combination of drawing, dictating, and/or writing in response to a text read aloud, or to tell a story about a life experience or event. (4.2)</p> <p>With guidance and support from adults, participate in acts that promote the development skills associated with the use of digital tools (e.g., learning games). (4.3)</p>	<p>W 1</p> <p>Use a combination of drawing, dictating, and writing to compose opinion pieces in which they tell a reader the topic or the name of the book they are writing about and state an opinion or preference about the topic or book (e.g., My favorite book is...).</p>
					<p>W 2</p> <p>Use a combination of drawing, dictating, and writing to compose informative/ explanatory texts in which they name what they are writing about and supply some information about the topic.</p>

Subdomain: Writing					
Standard LL 7: Develop familiarity with writing implements, conventions, and emerging skills to communicate through written representations, symbols, and letters.					
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)	Kindergarten ELA Common Core Standards Alignment
		digital tools such as computers. (2.7)			<p>W 3</p> <p>Use a combination of drawing, dictating, and writing to narrate a single event or several loosely linked events, tell about the events in the order in which they occurred, and provide a reaction to what happened.</p> <p>W 6</p> <p>With guidance and support from adults, explore a variety of digital tools to produce and publish writing, including in collaboration with peers.</p>

H. Strategies for Language and Literacy Development

Strategies for Language and Literacy Development
<p>Infants</p> <p>Have a primary caregiver who is responsible for each infant's daily care. This will help that caregiver better understand each child's unique way of communicating.</p> <p>Think of crying as positive, as a sign that the infant is communicating his/her needs and that he/she trusts you to respond to them.</p> <p>Use language with infants from the start. Talk with them long before they can talk to you. Use "self-talk" to tell the infant what you are doing (e.g., "I am changing your diaper") and "parallel-talk" to reflect what the infant is doing (e.g., "You grabbed the rattle."). Talk with families to learn and share all the ways infants communicate before they can talk.</p> <p>Cuddle infants on your lap and look at books, even when they are very young. Cloth and vinyl books can be washed, if needed.</p> <p>Comfort infants by talking to them: "Yes, I know that you are hungry. Let's go get some milk for you."</p> <p>Pay attention to the infants' nonverbal expressions and respond to them both verbally and nonverbally. Respond to a smile with a smile and say, "Look at Joseph's big smile."</p>
<p>Toddlers</p> <p>Be tuned in to each child's nonverbal communication strategies such as pointing or shaking head "yes" or "no" and respond by using words to help him express his ideas.</p> <p>Continue to use simple, consistent sign language and say the word each time you do.</p> <p>Respond quickly to toddlers' cries or other signs of distress because they may have limited language with which to communicate their needs.</p> <p>Interpret toddlers' communication attempts with peers. For example, during outside time, one child looks at another and points to the tricycle. You can say, "Mary, I think Louis wants to ride the tricycle."</p> <p>Read to toddlers individually or in small groups throughout the day. Do not expect that they will all be sitting and listening at the same time.</p> <p>Select books with simple plots about familiar things and people. Toddlers enjoy books that use repetition or rhyme.</p> <p>Set up a cozy and soft reading/library/book area for toddlers to use independently. Include some sturdy, familiar books.</p> <p>Choose vinyl and board books; expect to replace books frequently.</p>
<p>3-Year-Olds</p> <p>Talk about what's happening now and what will happen next. For example, say, "After we have lunch it will be time for nap."</p> <p>Ask questions that require the child to give more than a "yes" or "no" answer (open-ended questions). Include questions that require the child to think (e.g., "What would happen if we moved this block?").</p> <p>Do not correct mistakes in word use, pronunciation or tense.</p>

Strategies for Language and Literacy Development
<p>Simply model the correct way to say it. For example, if the child says, "The plane is highering up!" You say, "Yes, that plane is going higher!"</p> <p>Continue to use many songs, fingerplays, and stories throughout the day in routine times, transition times, and playtime.</p> <p>Read to children in small groups of two or three. Have props or objects that relate to the story for the children to touch or hold.</p> <p>Provide a variety of materials in the writing center for children to use to communicate or create.</p>
<p>4-Year-Olds</p> <p>Engage children in frequent conversations about topics that interest them and build on what they say with more complex language.</p> <p>Provide opportunities for children to experiment and play with the sounds that words make through songs, rhymes, poems, and nonsense words.</p> <p>Model and explicitly demonstrate reading print from top to bottom and from left to right.</p> <p>Introduce new vocabulary when asking questions or describing situations or objects and relate the new words back to familiar words and or/ideas. Encourage children to use these words when talking about pictures or real objects. Use variations of the same word such as, magnify, magnifier, magnifying, and magnified.</p> <p>Point out the title, author, and illustrator when reading a book.</p> <p>Talk about characters and story events after reading.</p> <p>Write children's words on their pictures, display these in the classroom.</p> <p>Provide a variety of materials in the writing center for children to communicate or create.</p>

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Chapter 5. Physical Well-Being and Motor Development

§501. Introduction

A. Health and physical development skills are the foundation for the future health and well-being of all children. This domain fosters children's sound nutritional choices, health/safety practices, and physical activity for optimal learning.

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§503. Physical Fitness and Motor Skills

A. As children grow and develop, their motor skills begin to improve as connections in the brain grow. Motor skills develop in an orderly, predictable way. They develop from the top of the child to the bottom, and from the center of the body outward. Also, skills become more and more specialized as children grow. Although there is variation in the age at which each child will develop a particular skill, for the most part, the order in which skills develop is predictable. For example, a young child can walk before he can run, and run before he can hop.

B. There are two general types of motor skills: gross motor skills and fine motor skills. Gross motor refers to the movement of the large muscles in the upper and lower body. These are the muscles that control the ability to walk, run, jump, etc. Fine motor refers to movement of the small muscles of the hand and arm that control the ability to scribble, write, draw, and do many other activities that require finger, hand, and hand-eye coordination. Gross motor skills usually develop before fine motor skills. Babies can wave their arms before they can pick up small objects with their fingers, and preschoolers can scribble with sweeping motions before they can write. As these motor skills are developing, children also are learning to use information gathered through their senses to understand their environment and make decisions about what action to take. For example, a child may adjust his/her walking if a surface is wet or slippery. Similarly, a child may recognize a cup that has been buried in the sand based on their touch and feel of the cup. As children develop, they become more capable of organizing information that is collected through their different senses, and then using this sensory information to guide their movements.

C. Although movement skills develop naturally in most young children, it is important that children have a variety of physical experiences that facilitate good muscle development, and experiences that allow them to practice motor skills. This is important, since the majority of motor skills develop by age 12. It is also important for good physical fitness. Parents, you, health professionals, and

policy makers share a common concern about the alarming increase in childhood obesity rates. Therefore, the standards and indicators provided in this domain are important because they encourage adults to provide a variety of motor activities for young children.

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§505. Good Health and Safety Practices

A. Early childhood is a good time to begin teaching children good health, nutrition, and safety practices. Studies have shown that children will generally eat the types of food they are provided during childhood for the remainder of their lives. If they learn to eat a variety of fruits and vegetables, they will continue to eat them. In contrast, if they are fed a lot of unhealthy snacks and eat at fast-food restaurants, they will continue to do so. Food habits are one of the most important habits a child learns.

B. Early childhood is also a good time to begin to teach general safety practices to children. Understanding hazards that might be in the environment is something that develops gradually in young children. When children are very young, they need the constant presence and guidance of adults to help ensure their safety. As children grow older, they begin to understand that some situations are dangerous. While they continue to need diligent supervision, they also can begin to learn about danger and how to avoid it. The standards and indicators in this domain are designed to foster children’s understanding of how to keep themselves healthy and safe.

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§507. Physical Well-Being and Motor Development Standards

A. Develop large muscle control and coordinate movements in their upper and/or lower body.

Subdomain: Motor Skills and Physical Fitness				
Standard PM 1: Develop large muscle control and coordinate movements in their upper and/or lower body.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
PM 1 Indicators				
Develop strength and control of head and back progressing to arms and legs. (0.1) Develop strength and control of head and back progressing to arms and legs when playing with objects. (0.2)	Control and coordinate movement of arms, legs, and neck. (1.1) Control and coordinate movement of arms, legs, and neck when using a variety of objects. (1.2)	Combine and coordinate arm and leg movements when engaged in active play. (2.1) Combine and coordinate arm and leg movements when engaged in active play with objects and equipment. (2.2)	Use arms and legs for balance and motor control when walking, jumping, throwing and climbing. (3.1) Use arms and legs for balance and motor control using objects and equipment for a wide range of physical activities. (3.2)	Use the whole body for balance and motor control when walking, jumping, throwing and climbing. (4.1) Use the whole body for balance and motor control using objects and equipment for a wide range of physical activities. (4.2)

B. Standard 2: Develop small muscle control and coordination.

Subdomain: Motor Development and Physical Fitness				
Standard PM 2: Develop small muscle control and coordination.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
PM 2 Indicators				
<p>Develop small motor control moving from the chest outward to arms, wrist, and hands. (0.1)</p> <p>Use hands to accomplish actions with rake grasp and/or palming. (0.2)</p> <p>Coordinate eye and hand movements when eating, grasping, or picking up objects. (0.3)</p>	<p>Demonstrate control of wrists, hands, and fingers. (1.1)</p> <p>Use pincer grasp (their thumb and forefinger) to pick up small objects. (1.2)</p> <p>Hold an object in one hand and manipulate it with the other hand. (1.3)</p> <p>Coordinate eye and hand movements to explore objects or complete activities (e.g., transfer object from one hand to the other, stack blocks to build a tower). (1.4)</p>	<p>Complete tasks that require more refined control of small muscles when using hands to reach, grasp, and release objects. (2.1)</p> <p>Coordinate eye and hand movements to carry out simple tasks (e.g., using utensils for eating, putting puzzles together, stringing large beads). (2.2)</p>	<p>Use hands, fingers, and wrists for a wide variety of tasks and activities. (3.1)</p> <p>Coordinate eye and hand movements to accomplish simple tasks (e.g., using utensils for eating, putting puzzles together, stringing large beads, using a crayon). (3.2)</p>	<p>Use hands, fingers, and wrists to manipulate large and small objects with strength and good control of small muscles. (4.1)</p> <p>Coordinate eye and hand movements to perform complex tasks (dressing and undressing) or to use everyday tools (e.g., pitchers for pouring or scissors for cutting along a line). (4.2)</p>

C. Standard 3: Participate in a variety of physical activities to enhance strength and stamina.

Subdomain: Motor Skills and Physical Fitness				
Standard PM 3: Participate in a variety of physical activities to enhance strength and stamina.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
PM 3 Indicators				
<p>Move body in a variety of ways, (e.g., kicking feet, waving arms, or rolling over). (0.1)</p> <p>Engage in play that helps to develop strength in arms and legs (e.g., floor games that provide opportunities for reaching, grasping or pushing). (0.2)</p>	<p>Participate in a variety of indoor and outdoor play activities. (1.1)</p> <p>Engage in play that helps to develop strength in arms and legs (e.g., filling and dumping a bucket, pushing a baby stroller, playing on outdoor equipment). (1.2)</p>	<p>Participate in a variety of indoor and outdoor play activities. (2.1)</p> <p>Engage in regular and sustained play activities that are physically demanding for short periods of time. (2.2)</p>	<p>Seek out a variety of physical activities such as games and indoor/outdoor play. (3.1)</p> <p>Demonstrate strength and stamina that allow for participation in rigorous activities (e.g., running, climbing, kicking or throwing a ball). (3.2)</p>	<p>Initiate and engage in a variety of physical activities including games, exercises, and play that enhance physical fitness. (4.1)</p> <p>Demonstrate strength and stamina that allow for participation in rigorous activities (e.g., running, climbing, kicking or throwing a ball). (4.2)</p>

D. Standard 4: Develop appropriate health and hygiene skills.

Subdomain: Health and Hygiene				
Standard PM 4: Develop appropriate health and hygiene skills.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
PM 4 Indicators				
<p>Willing to try healthy foods offered by caregiver. (0.1)</p> <p>Cooperate with some personal care routines. (0.2)</p> <p>Respond to consistent bedtime routine. (0.3)</p> <p>Soothe self and fall asleep. (0.4)</p>	<p>Accept healthy foods that are offered by caregiver. (1.1)</p> <p>Participate in personal care routines with adult caregiver. (1.2)</p> <p>Cooperate with sleep routines. (1.3)</p> <p>Comfort self, fall asleep, and returns to sleep if awoken. (1.4)</p>	<p>Identify a variety of healthy foods. (2.1)</p> <p>Eat a variety of healthy foods. (2.2)</p> <p>Carry out some parts of personal care routines with adult guidance supervision and assistance. (2.3)</p> <p>Initiate and participate in sleep routines. (2.4)</p> <p>Fall asleep on their own and returns to sleep if awoken. (2.5)</p>	<p>Identify foods (real or pictures) that are healthy and less healthy for the body. (3.1)</p> <p>Select from a variety of healthy foods that are offered. (3.2)</p> <p>Carry out most personal care routines with minimal adult guidance and assistance. (3.3)</p> <p>Sleep or rest for a sufficient amount of time to support healthy development of their body. (3.4)</p>	<p>Identify different foods and the corresponding food group according to "My Plate". (4.1)</p> <p>Give a simple explanation as to why a particular food is healthy or unhealthy. (4.2)</p> <p>Exhibit good hygiene habits and manage age-appropriate personal care routines on own. (4.3)</p> <p>Get sufficient sleep and rest to support healthy development of their body. (4.4)</p>

E. Standard 5: Demonstrate safe behaviors.

Subdomain: Safety				
Standard PM 5: Demonstrate safe behaviors.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
PM 5 Indicators				
Attend to adult cues (e.g., facial expression, tone of voice) that indicate a harmful or unsafe situation. (0.1) May cry upon seeing adult reaction to a potential harmful situation. (0.2)	Attend to adult cues (e.g., facial expression, tone of voice) to see if situation is harmful or unsafe. (1.1) Use cue or signal from adult to guide behavior in harmful or dangerous situations. (1.2) Cooperate with some basic safety practices. (1.3)	Recognize some harmful situations. (2.1) Follow directions from an adult to avoid potential harmful conditions/situations. (2.2) Follow safety rules with assistance and guidance from adults. (2.3)	Identify and avoid potentially harmful objects, substances, or situations or behaviors with supervision. (3.1) State safety rules and follow them with guidance from adults. (3.2)	Identify and alert others of potentially hazardous objects, substances, behaviors, and/or situations (that may appear in the child's environment) with supervision. (4.1) Demonstrate and communicate a basic understanding of health and safety rules and respond appropriately to harmful or unsafe situations (e.g., hold an adult's hand when crossing the street, don't touch a hot stove, etc.). (4.2)

F. Strategies for Physical Well-Being and Motor Development

Strategies for Physical Well-Being and Motor Development
<p align="center">Infants</p> <p>Place objects within reach at first and then slightly out of reach as infants gain more muscle control.</p> <p>Avoid placing infants in restrictive devices (no swings, walkers, saucers, infant seats, or bouncy seats). Car seats in a vehicle are the only exception to this rule. Use cribs or playpens only for napping and sleeping.</p> <p>Place infants on mats or rugs in safe areas of the room where they have the freedom to move, explore and practice new skills.</p> <p>Be sure to remember safety rules, even when you think the infant cannot reach something or move very much. Keep in mind that infants should never be left alone on changing tables.</p> <p>Provide toys that are responsive and make a noise as young infants go from reflexive action to grabbing, grasping, and manipulating objects.</p> <p>Include toys such as rattles, squeeze toys, and soft, washable toys. Toys should be small enough so that young infants can grasp and chew them, yet large enough so that infants cannot choke on or swallow them.</p>
<p align="center">Toddlers</p> <p>Model healthy eating while sitting with children at the table. Provide a choice of two or more nutritional foods and allow toddler to choose.</p> <p>Give child time to accomplish hygiene routines independently before stepping in to assist.</p> <p>Provide open space both indoors and outdoors for young toddlers to move and practice their developing gross motor skills. Include low, sturdy objects (e.g., furniture or railings) for toddlers to hold onto while cruising.</p> <p>Provide items such as pillows and low platforms to the environment so that toddlers have different levels to explore and to have safe climbing opportunities. Low inclines or ramps provide a different sense of movement, space, and balance.</p> <p>Provide opportunities and a variety of materials that encourage children to use manipulative skills (e.g., nesting toys, soft blocks, containers for filling and emptying, fat crayons, playdough).</p>
<p align="center">3-Year-Olds</p> <p>Model healthy eating while sitting with children at the table.</p> <p>Provide a choice of two or more nutritional foods and allow children to choose.</p> <p>Provide opportunities in the daily schedule to practice hygiene routines, such as tooth brushing, teeth flossing or handwashing.</p> <p>Provide wheeled toys (3-4 wheels, with pedals and without) and places to ride them. Add social play to motor play by adding simple rules like a stop sign along the tricycle path or a "gasoline pump" to fill-up vehicles.</p> <p>Use small climbers and a variety of different sized boxes to encourage social role play as they represent forts, houses, or tents.</p> <p>Provide a variety of levels and obstacles (things to go through, around, over, and under) to increase the children's skills and enjoyment.</p> <p>Stock manipulative centers with containers for objects to be put into. Good manipulative opportunities can occur in many daily routines and self-help skills. Zipping real zippers and fastening simple fasteners is much more fun when it is a functional process.</p>

4-Year-Olds
<p>Read books about healthy practices. Discuss the concepts of rest, exercise, and good eating related to good health.</p> <p>Model healthy eating, display the "My Plate" model for healthy and nutritious eating.</p> <p>Provide opportunities for children to pour their own drinks and to serve foods (e.g., spooning out applesauce).</p> <p>Talk about consequences of unsafe behavior (e.g., injury to self, others, or damage to property).</p> <p>Provide opportunities for children to engage in gross motor activities inside (e.g., dancing, moving to music, Simon Says, etc.).</p> <p>Provide space and opportunities for children to walk, run, and climb every day.</p> <p>Provide a variety of materials (e.g., beads and snap cubes) for children to put together and pull apart.</p> <p>Develop activities or opportunities for children to practice drawing and writing with a variety of tools</p>

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Chapter 7. Social-Emotional Development
§701. Introduction

A. School readiness not only means that children are intellectually prepared for school, but also that they are socially and emotionally prepared for success in the classroom. One of the primary goals of a quality early childhood program is to foster healthy social and emotional development in young children. To be successful, children must be able to develop relationships with others, cooperate with peers and adults, understand others' feelings and perspectives, and maintain some control of their behaviors and emotions. These characteristics help to ensure that children are able to get along and participate with others in the classroom.

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§703. Early Relationships with Adults and Peers

A. The social and emotional development of young children is strengthened when they feel that the adults in their lives care about them and they develop close relationships (often called "secure attachments") with their

parents, teachers, and other adults who care for them. Positive relationships encourage children to care about other people and seek to understand the thoughts and feelings of others. Research has found that children whom have secure, trusting relationships with their caregivers get along better with their peers and have an easier time adjusting to the demands of formal schooling. Adults can help children develop these types of positive relationships by consistently responding when children, especially babies, need something or they are upset, and by being warm and loving when caring for children.

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§705. Self-Concept

A. How children feel about themselves and their own sense of worth has a lot to do with later success in life. Children who have a positive sense of self are more likely to try new things and work toward reaching goals. They tend to accept new challenges and feel more confident about their ability to handle any problems or difficulties that may come up.

B. Children's self-concept develops very early in life. How children see themselves and how they feel about themselves is related to their early relationships. These early relationships help young children learn about who they are and how they are seen by others. When caregivers and teachers respond to children with acceptance and positive regard, children feel important and they learn to feel good about themselves.

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§707. Self-Regulation: Managing Behavior and Emotions

A. Early childhood is a time when young children are learning to manage their impulses, desires, and emotions. Very young children (infants and toddlers) often need the support of caregivers who can provide comfort and help to soothe distressed feelings in order to learn how to regulate their emotions. As children get older, their ability to regulate and manage emotions develops some, but they often still have difficulties controlling their feelings. Parents and early childhood you may be able to help children learn to focus their attention, follow rules and guidelines, get along with others (e.g., learning to share), and manage their emotions or express feelings in an acceptable ways (e.g., expressing anger with words rather than hitting). Still, this is an area that can be challenging for young children, so they need consistent guidance as they learn to manage their behaviors and emotions.

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§709. The Role of Temperament

A. One important concept in caring for young children is each child's temperament and the way a child's temperament affects how the child interacts with and relates to the world around him/her. Temperament refers to a child's "personal style." It influences the way in which he/she approaches and reacts to people and to different situations. Once caregivers understand a child's temperament, they can use this information to anticipate situations and issues before they occur.

B. Researchers suggest that children's temperament falls into three general categories:

1. easy/flexible. These children tend to be calm and happy. They are fairly flexible and adapt easily to new situations/people;

2. active/feisty. Active or feisty children often are more fussy and intense in their reactions. They tend to be more fearful of new situations and people, and can be easily upset by noise and stimulation;

3. cautious/slow to warm. These children tend to be fussy and less active. They may withdraw or react fearfully to new situations; however, if given time and support, "slow to warm" children will learn to adapt and adjust to the situation.

C. It is important for caregivers to remember that these are general categories, and not all children's temperaments will fall neatly into one of these three categories. Also, it is important to understand that temperament traits, like personality traits, may differ in terms of the level of intensity. For example, when a stranger comes into the room, one baby with a cautious/slow to warm temperament may become uneasy and look over at the caregiver for comfort, while another infant with the same temperament may begin to cry and let the caregiver know that he/she wants to be picked up.

D. Finally, it is important for caregivers to remember that children's basic temperament does not change over time. While environment and interactions with caregivers and parents can affect the intensity and expression of temperamental traits, these are fairly constant throughout the course of childhood. Therefore, when we think about the standards and indicators described in this domain, which we know are important areas in which children should show progress, we have to keep in mind that children may express their skills and knowledge differently, and that their temperament may affect how often and the intensity with which children respond.

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§711. Social-Emotional Development Standards

A. Standard 1: Develop healthy relationships and interactions with peers and adults

Subdomain: Social Relationships				
Standard SE 1: Develop healthy relationships and interactions with peers and adults.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
SE 1 Indicators				
<p>Notice and pay attention to others. (0.1)</p> <p>Notice how others respond to his/her behaviors. (0.2)</p> <p>Explore a variety of things in the environment (e.g., reach for a toy, put a rattle in mouth). (0.3)</p> <p>Participate in simple back and forth play and interaction with adults. (0.4)</p> <p>Attend and respond to familiar adults. (0.5)</p> <p>Become frightened or distressed when separated from familiar caregiver. (0.6)</p> <p>Move or cry to seek attention and comfort from familiar adults. (0.7)</p> <p>Touch, smile, or babble to other infants. (0.8)</p>	<p>Recognize and react to feelings in others (e.g., offers toy to crying peer). (1.1)</p> <p>Repeat actions that elicit social responses from others (e.g., smiles at others or begins to babble). (1.2)</p> <p>Show interest in a variety of things, people, and objects. (1.3)</p> <p>Play alongside another child (parallel or mirror play) for brief periods. (1.4)</p> <p>Become frightened or distressed when separated from familiar caregiver. (1.5)</p> <p>Show preference for familiar caregivers (e.g. following caregiver around the room, cry when caregiver leaves). (1.6)</p> <p>Use familiar adults as "secure base" by glancing back to caregiver while playing. (1.7)</p> <p>Enjoy playing next to or close to other children. (1.8)</p> <p>Interact briefly with other children by gesturing or offering a toy. (1.9)</p>	<p>Sometimes recognize the feelings of others and respond with words and/or behaviors to express care and concern (e.g., "Becky is crying"). (2.1)</p> <p>Make connection between choice and consequence that follows. (2.2)</p> <p>Notice differences in others, objects, and environment. (2.3)</p> <p>Engage in social play alongside other children and, on occasion, with other children. (2.4)</p> <p>Follow adult guidance to respond to conflict. (2.5)</p> <p>Show affection for adults that care for him/her on a regular basis. (2.6)</p> <p>Willingness to explore, but will seek help from trusted adults in new situations or when fearful. (2.7)</p> <p>Interact more regularly with one or two familiar children. (2.8)</p>	<p>Sometimes recognize the feelings others are expressing and acts appropriately when others are happy, sad, angry or afraid (e.g., comforts a friend who gets hurt). (3.1)</p> <p>Develop a growing understanding of how his/her actions affect others and begin to accept consequences of their actions. (3.2)</p> <p>Demonstrate emerging awareness and respect for differences between people (culture, ethnicity, abilities, and disabilities). (3.3)</p> <p>Work or play cooperatively with other children with some direction from adults. (3.4)</p> <p>Resolve conflict with peers by following suggestions from an adult. (3.5)</p> <p>Show affection for adults that care for him/her on a regular basis. (3.6)</p> <p>Demonstrate interactions with a few adults who are less familiar. (3.7)</p> <p>Occasionally play with the same one or two children for a short time. (3.8)</p> <p>Describe one or two children as their friends. (3.9)</p> <p>Join in with a small group of children. (3.10)</p>	<p>Recognize and respect the feelings, needs, and rights of others (e.g., using polite language, sharing with others). (4.1)</p> <p>Express empathy and sympathy for others. (4.2)</p> <p>Demonstrate understanding of how one's words and actions affect others. (4.3)</p> <p>Demonstrate awareness of and respect for differences among people (culture, ethnicity, abilities, and disabilities). (4.4)</p> <p>Play cooperatively with small group of peers for a sustained time. (4.5)</p> <p>Demonstrate cooperation with peers by sharing, taking turns, etc. (4.6)</p> <p>Resolve conflict with peers on their own sometimes. (4.7)</p> <p>Seek help from adults when in conflict with peer, if needed. (4.8)</p> <p>Demonstrate positive relationships by seeking out trusted adults for emotional support, physical assistance, social interaction, approval, and problem-solving. (4.9)</p> <p>Develop and maintain positive relationships with peers. (4.10)</p>

C. Standard 2: Develop positive self-identify and sense of belonging.

Subdomain: Self-Concept and Self-Efficacy				
Standard SE 2: Develop positive self-identify and sense of belonging.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
SE 2 Indicators				
<p>Show awareness of body parts of self and others. (0.1)</p> <p>Express preferences for objects, activities and people. (0.2)</p> <p>Respond to his/her own name by movements or facial expressions. (0.3)</p>	<p>Recognize self in mirror. (1.1)</p> <p>Develop preferences to food, toys, games, textures, etc. (1.2)</p> <p>Express own desires and preferences. (1.3)</p>	<p>Express own desires and preferences. (2.1)</p> <p>Identify self in photographs. (2.2)</p> <p>Express self-awareness using "Me" or "mine." (2.3)</p>	<p>Recognize self in terms of basic preferences, characteristics, and skills. (3.1)</p>	<p>Describe self, referring to characteristics, preferences, thoughts, and feelings. (4.1)</p>

C. Standard 3: Express feelings and beliefs that he/she is capable of successfully making decisions, accomplishing tasks, and meeting goals.

Subdomain: Self-Concept and Self-Efficacy				
Standard SE 3: Express feelings and beliefs that he/she is capable of successfully making decisions, accomplishing tasks, and meeting goals.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
SE 3 Indicators				
<p>Show that she/he expects results from own actions (e.g., repeat loud noise to gain attention, hit toy over and over to produce sound). (0.1)</p> <p>Express pleasure at things she/he has done (e.g., wiggle, coo, laugh). (0.2)</p> <p>Actively explore toys, and objects in the environment. (0.3)</p> <p>Express preferences for objects, activities and people. (0.4)</p>	<p>Try new tasks with encouragement from adults. (1.1)</p> <p>Show joy, pleasure, and/or excitement over accomplishments. (1.2)</p> <p>Demonstrate a willingness to explore the environment and try experiences in the presence of a familiar caregiver. (1.3)</p> <p>Express certain preferences. (1.4)</p> <p>Make simple choices with guidance from adults. (1.5)</p>	<p>Demonstrate confidence when completing familiar tasks. (2.1)</p> <p>Express preferences and may have strong emotions and/or actions (e.g., may say "no" to adult). (2.2)</p> <p>Use some language to express feelings of pleasure over accomplishments (e.g., says "I did it!" after using potty successfully). (2.3)</p> <p>Try new experiences with adult prompting and support. (2.4)</p> <p>Make simple choices with guidance from adults. (2.5)</p>	<p>Demonstrate confidence in completing familiar tasks. (3.1)</p> <p>Actively explore the environment and begin to try new experiences. (3.2)</p> <p>Make choices between two or three options (e.g., chooses milk or juice). (3.3)</p>	<p>Demonstrate confidence in range of abilities and express pride in accomplishments. (4.1)</p> <p>Attempt new experiences with confidence. (4.2)</p> <p>Make choices or decisions from a range of options. (4.3)</p>

D. Standard 4: Regulate own emotions and behavior.

Subdomain: Self-Regulation				
Standard SE 4: Regulate own emotions and behavior.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
SE 4 Indicators				
<p>Respond to adult's expression of feelings (e.g., their facial and vocal expressions). (0.1)</p> <p>Calm down when held, rocked, or talked to by a familiar adult. (0.2)</p> <p>Use simple behaviors to comfort self or ease distress (e.g., turns away when overstimulated). (0.3)</p> <p>Express basic feelings (e.g., fear, anger, surprise) through facial expressions, body movements, crying, smiling, laughing, and/or cooing. (0.4)</p>	<p>Respond to adult's expression of feelings (e.g., their facial and vocal expressions). (1.1)</p> <p>Seek comfort in daily routines, activities, and familiar adults. (1.2)</p> <p>Use body to express emotions (e.g., hugging mother, throwing a toy when angry). (1.3)</p>	<p>Recognize feelings when named by an adult. (2.1)</p> <p>Find comfort in rituals and routines (e.g., uses special "lovey" or comfort object for naptime) with adult assistance as needed. (2.2)</p> <p>Express more complex emotions through behaviors, facial expression and some words. (2.3)</p>	<p>Recognize and name basic emotions (happy, mad, sad) in self. (3.1)</p> <p>Express own ideas, interests, and feelings through words or actions. (3.2)</p>	<p>Recognize and accurately label the feelings of self. (4.1)</p> <p>Express basic feelings, needs, and wants in a manner that is age-appropriate to the situation. (4.2)</p>

E. Standard 5: Regulate attention, impulses, and behavior.

Subdomain: Self-Regulation				
Standard SE 5: Regulate attention, impulses, and behavior.				
Infants (Birth to 11 months)	Young Toddlers (9-18 months)	Older Toddlers (16-36 months)	Three-Year-Olds (36-48 months)	Four-Year-Olds (48-60 months)
SE 5 Indicators				
<p>Respond to having needs met. (0.1)</p> <p>Respond to changes in adult's tone of voice, expression, and visual cues (e.g., shaking head). (0.2)</p>	<p>Respond to simple rules and routines. (1.1)</p> <p>Accept some redirection from adults. (1.2)</p> <p>Act on impulses (e.g., pull mother's hair or reach for another child's bottle). (1.3)</p> <p>Develop a capacity to wait for needs to be met when responded to promptly and consistently. (1.4)</p>	<p>Show some understanding of simple rules and routines with adult support. (2.1)</p> <p>Accept some redirection from adults. (2.2)</p> <p>Respond positively to choices and limits set by an adult to help control their behavior. (2.3)</p>	<p>With prompting and support, follow rules and routines. (3.1)</p> <p>With prompting and support, respond appropriately during teacher-guided and child-initiated activities. (3.2)</p> <p>Cooperate and begin to focus attention during teacher-guided and child-initiated activities. (3.3)</p> <p>With adult support and guidance, wait for short periods of time to get something she/he wants (e.g., waits her turn to play with a toy, etc.). (3.4)</p>	<p>Follow rules and routines and adapt to changes in rules and routines. (4.1)</p> <p>Demonstrate control over impulsive behaviors and focus attention in various settings but sometimes require adult support and guidance. (4.2)</p> <p>With adult support and guidance, wait for short periods of time to get something he/she wants (e.g., waits her turn to play with a toy, etc.). (4.3)</p>

F. Strategies for Social-Emotional Development

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Chapter 9. Glossary

§901. Definitions

Alliteration—the repetition of the same consonant sounds in a series of two or more neighboring words or syllables (e.g., bouncing baby boy, ba-be-bi-bo-boo, etc.).

Attachment—the strong emotional tie children feel with special people in their lives (family members and other caregivers).

Attend—to pay attention to something.

Attention—the ability to concentrate on an object, person, or event; to carefully observe or listen to something.

Attribute—a characteristic used to describe an object such as shape, color, size, etc.

Blending—the process of forming a word by combining parts of words. For example, when you blend the sounds /b/a/t/ together, they become the word "bat."

Cardinality—the concept of "how many" or the understanding that the last number identified when counting objects in a set represents "how many" are in the set. For example, the cardinality of the set {1 - 2 - 3} is 3.

Classify—to arrange or organize according to class or category. For example, a child might arrange a set of blocks according to color, with all of the red blocks are in one group and all of the blue blocks in another group.

Comparative Language—using words that note the degree of similarity or difference between two or more objects.

Conflict Resolution—learning to resolve a disagreement or argument in a calm and constructive manner.

Cooperative Play—any organized play among a group of children in which activities are planned for the purpose of achieving some goal (e.g., pretending to be a group of firefighters).

Culture—characteristics of a particular group of people that are based on shared knowledge, experiences, beliefs, values, attitudes, and/or understandings. May be expressed through shared or common language, religion, music, cuisine, art, and/or social habits.

Digital Tools—a broad range of electronic devices such as computers, tables, multi-touch screens, interaction whiteboards, mobile devices, cameras, DVD and music players, etc.

Empathy—the ability to understand or identify with another person's situation and/or feelings.

Engaged—to take part in; to be involved with an object, activity and/or person.

English Language Learners (ELL)—refers to children to who are learning a second language at the same time they are learning English.

Expressive Language—the ability to use words or gestures to communicate meaning.

Family Culture—a family's way of life, this includes their beliefs, customs, and behaviors.

Fiction—literature (e.g., books, stories, poems) where the people and events are imaginary.

Fine Motor Skills—tasks that use the smaller muscles of the body such as those in the wrists or fingers. Includes skills such as reaching, grasping, writing/drawing, or picking up small objects.

Strategies for Social-Emotional Development	
Infants	
Provide for attachment needs by establishing a primary caregiver system.	
Realize that young infants differ widely in their ability to quiet themselves when they are upset. The comfort you offer will need to be different for each child.	
Encourage young infants' expressions of pleasure by responding to them and following their lead in interactions. Be a partner in play with them.	
Talk with infants about the feelings they seem to be expressing, especially during caregiving times of feeding, dressing, and diapering.	
Create a personal relationship with each infant. Know the kind of cuddling, stroking, talking, and playing that bring good feelings to each individual infant.	
Realize that very young infants have limited resources for expression; crying may be all they are able to do at this early stage of emotional development. Caregivers should respond quickly and sensitively to infant's cries. This signals the infant that his/her needs are important and will be taken care of promptly.	
Toddlers	
Include plenty of materials in the environment to allow children to express feelings (e.g., dramatic play props, art, music/songs, puppets, and sand/water play for children over 18 months).	
Help young toddlers become more independent. Allow them to do more for themselves and offer them appropriate choices.	
Toddlers often respond with a loud "NO!" even when they really mean, "YES." Try not to ask questions that require a "yes" or "no" answer. For example, instead of saying "Would you like oatmeal for breakfast?" say, "Would you like oatmeal or cereal for breakfast?"	
Help toddlers deal with their fears by providing a safe environment and by offering them comfort when they are frightened.	
Provide words for the toddler's feelings (e.g., to Noah who breaks into a big smile as his father enters the room, say, "Noah, I can see you're happy to see Dad.").	
Know each child in your care and respond to his or her individual needs. Keep notes on children so you can provide the individual attention that each needs.	
Focus on children's positive qualities-their accomplishments and things they can do well (e.g., "You buttoned your coat all by yourself.").	
3-Year-Olds	
Provide opportunities for cooperative play like a rocking boat or a wheeled toy that accommodates two children.	
Comment on and encourage positive social interactions. Model positive and respectful communication between adults.	
Talk about feelings. Specifically comment on the child's feelings as well as the feelings of others. "You are dancing as if you are very happy."	
Focus on children's positive qualities-their accomplishments and things they can do well.	
Model the type of interactions with others you want children to develop: affection, empathy and gentleness (e.g., tell a child if you are angry but never react in anger by shaking or jerking).	
Include plenty of materials in the environment to allow children to express and share feelings and to role-play [e.g., dramatic play props (dolls, dress-up clothes, small people/figures), sand/water play; art, music and songs, puppets, books, etc.].	
4-Year-Olds	
Clearly state behavior expectations and provide specific feedback when children behave well.	
Model self-control by using self-talk: "Oh, I can't get this lid off. I am feeling frustrated [take a deep breath]. That's better. I'll try again."	
Coach children to express their feelings verbally, using either their home language or English.	
Read books that include conflicts or problems requiring cooperation. Ask children to predict what will happen next, or after reading, ask them to provide alternative solutions.	
Help children who are having difficulty making friendships with others by planning cooperative activities like buddy painting or collages. Teach these children how to initiate and sustain peer interactions.	
Make sure the learning environment is welcoming to every child and reflects his/her identity and culture. Use photos of children and family members, displays of children's work, and their names for functional purposes like taking attendance, storing belongings, or assigning jobs.	

Gross Motor Skills—tasks that use the gross or large muscles of the body like those in the arms, legs, and core. Includes skills such as running, climbing, kicking, throwing, etc.

Hypothesize—to come up with an explanation or idea about something that can be tested by further investigation. For example, a child might hypothesize about what will happen when blue and yellow paint is mixed together.

Imitate Inflection—mimic changes in an adult's voice (e.g., changes in pitch or tone).

Intense Attention—an ability to focus intently or with great effort.

Joint Attention—a state in which the child and the caregiver pay attention to the same object or event, and the caregiver often talks about what they are looking at.

Learning Scheme—refers to the way in which young children begin to learn about their environment and how they organize information they take in from the environment. For example, a toddler discovers that a ball bounces when dropped from the high chair, and begins to experiment to see if other objects will bounce when dropped.

Locomotor—refers to movement; basic locomotor skills include walking, running, hopping, jumping, skipping, etc.

Manipulatives—materials that allow children to explore, experiment, and interact by using their hands. Such items include, but are not limited to, beads and laces, puzzles, small blocks, playdough, lacing cards, and items that can be snapped, zipped or hooked together, to name a few.

Melody—a series of musical notes arranged in succession.

Numeral—the symbol that is used to represent a number (e.g., 3 or III).

One-to-One Correspondence—the ability to match each item in one set to another item within a different, but equal set (e.g., matching a set of socks with a set of shoes).

Onset—a part of spoken language that is smaller than a syllable, but larger than a phoneme. It is the initial consonant sound of a syllable (The onset of bag is b-; of swim, sw-).

Open-ended Questions—a question that tends to be broader and will require more than a one- or two-word response (e.g., How? Why? Where?).

Ordinal Number—a whole number that names the position of an object in a sequence (e.g., first, second, third, etc.).

Palming—scooping small objects, such as Cheerios, into the palm of their hand. This is called palming objects.

Pantomime—communicating by way of gesture or facial expression.

Parallel Talk (and Self-Talk)—

Parallel Talk—Adults talking to a child, describing what the child is doing.

Self-Talk—words or dialogue adults use to describe what they are doing.

Persistence—a child's ability to continue an activity or continue working on a task in spite of challenges that could discourage the child from continuing to try.

Phoneme—a sound unit of speech.

Phonemic Awareness—ability to hear and identify parts of the spoken language and auditorily divide into phonemes.

Pincer Grasp—the child's use of the thumb and forefinger to pick up or manipulate small objects.

Positional Words—words that are used to describe the location of something or to give directions related to movement (e.g., up, down, left, right, etc.).

Problem-Solving—behaviors practiced by young children that allow them to explore questions or situations and try different solutions.

Raking Grasp—infants use their hands to "rake" objects toward them and open their fingers to grasp an object.

Receptive Language—the child's ability to understand what is being said or communicated by others.

Replicate—to reproduce, imitate, or copy.

Rhythm—musical term that refers to the repeated pattern of sounds or silences. Also referred to as the "beat" of a song.

Rime—the part of a syllable that contains the vowel and all that follows it (e.g., the rime of bag is -ag; of swim, -im).

Segment—the ability to identify how many words are in a sentence (e.g., children will clap to each individual word) or how many syllables are in a word (e.g., children will clap to each syllable, "ba-by").

Self-Concept—the set of attributes, abilities, attitudes, and values that an individual believes defines who he or she is.

Self-Efficacy—belief in one's ability to accomplish a task, goal or outcome.

Self-Soothe—the ability to calm oneself when upset or to soothe oneself to sleep.

Self-Regulate—the ability to control one's emotions and/or behaviors.

Seriate—the ability to arrange items in order along a dimension such as height, length, or weight (e.g., putting pegs in holes shortest to tallest or arranging pictures of three bears in order littlest to biggest, etc.).

Social Stimulation—opportunities that children have to interact and develop relationships with others.

Stamina—the ability to sustain prolonged physical or mental effort.

Standard Measurement vs. Non-Standard Measurement—

Standard Measurement—a measure determined by the use of standard units such as inches, feet, pound, cups, etc.

Non-Standard Measurement—a measure that is not determined by the use of standard units (e.g., blocks, string).

Subitize—to perceive how many objects are in a group, without counting. For example, recognize at a glance that there are three objects in a group.

Syllable—a part of a word that contains a vowel or, in spoken language, a vowel sound.

Sympathy—acknowledging how another person is feeling and perhaps trying to provide some comfort or assurance to the person.

Temperament—the combination of mental, physical, and emotional traits of a person; a person's natural predisposition.

Tempo—musical term that refers to the measure of how quickly a beat is played. Tempo is measured in beats per minute (bpm).

Tone—any sound considered with reference to its quality, pitch, strength, source, etc.

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Chapter 11. Strategies to Support Children with Disabilities and English Language Learners

§1101. Strategies for Including Children with Disabilities in Program Activities

A. The goal of the Early Learning and Development standards is to provide a guide for the areas and skills that are important for all children, including children with disabilities. However, children with disabilities may need additional support or they may progress on the standards in ways that are different from typically developing children. There are many ways of adapting or modifying activities for children with disabilities. It is important that every teacher consider the uniqueness of each child and recognize that all children have different approaches, preferences, and skill levels. The following strategies, though not an exhaustive list, are recommended practices for helping teachers meet the diverse needs of each of their children.

Cognitive Delays or Learning Challenges	Hearing Impairments	Orthopedic, Motor, or Other Health Challenges
<p>Reduce distractions (background noise, clutter, etc.); provide access to areas that are quiet and offer a break from stressors in the environment.</p> <p>Give clear instructions, repeat and demonstrate when necessary; combine verbal and visual cues.</p> <p>Use concrete materials/experiences.</p> <p>Break down difficult tasks into smaller parts; make suggestions that give clues for next steps in an activity.</p> <p>Establish routines without being rigid; post picture and word sequences of schedules and routines.</p> <p>Plan for and limit the number of transitions.</p> <p>Allow time for meaningful repetition and practice.</p> <p>Provide encouragement and frequent feedback.</p> <p>Model appropriate use of materials, tools, and activities in classroom.</p>	<p>Get children's attention and use visual cues.</p> <p>Face children when possible, and use clear voice and facial expressions.</p> <p>Use objects or pictures to demonstrate what is being talked about.</p> <p>Provide many opportunities for communication with adults and peers.</p> <p>Ask for feedback to be sure message is understood.</p> <p>Limit background noise and other auditory distractions.</p> <p>Use multiple forms of communication, such as gestures, printed words, and objects, when needed.</p> <p>Learn about adaptive aids or communications systems children use; learn basic signs to communicate and to model appropriate behaviors.</p> <p>Sing along with tapes, CDs, etc. to encourage children to lip read.</p>	<p>Adapt/modify materials, equipment, toys, etc. by stabilizing/enlarging them, adding handles or grips, etc.</p> <p>Ensure that environment accommodates wheel-chairs, body boards, etc.; monitor pathways/floor space to promote accessibility and movement.</p> <p>Keep classroom uncluttered; ensure easy access to shelves, cubbies, sinks, etc.</p> <p>Learn about adaptive equipment; seek inexpensive solutions, if adaptive equipment is not available (e.g., support child's feet, by using a telephone book as a footrest, use a tray on walker to move toy).</p> <p>Provide additional time for children to get to materials/activities.</p> <p>Use non-locomotor movement activities, such as moving arms, even when feet are in place.</p>

Communication Challenges	Visual Impairments	Challenging Behaviors/Emotional Disturbances
<p>Plan experience/opportunities that motivate children to give and receive messages with adults and peers.</p> <p>Verbalize what children tell you with their actions; ask open-ended questions.</p> <p>Add new information slowly and clearly; give only one verbal direction at a time.</p> <p>Provide language experiences with repetitive sounds, phrases, sentences, rhymes, chants, etc.</p> <p>Be familiar with an AAC (augmentative and alternative communication systems) used by children.</p> <p>Repeat and expand on children's thinking; introduce concepts and add new information slowly and clearly.</p> <p>Support children's communication in other areas, such as with writing or drawing.</p>	<p>Evaluate the environment, including the lighting to ensure that pathways are unobstructed, furnishings are consistently located and materials are positioned so children can see them clearly.</p> <p>Describe and label demonstrations, objects, or events that children cannot readily see.</p> <p>Give clear and specific directions, using children's names; provide additional directional language when possible (near, forward, next to, etc.).</p> <p>Use pictures/books that are bold and uncluttered; use high-contrast colors (black/yellow, black/orange).</p> <p>Use auditory or tactile cues; plan activities to help children strengthen all of their senses.</p> <p>Use large, clear, tactile labels to identify materials, activities, etc.</p>	<p>Provide a warm, inviting, and supportive environment; have appropriate expectations of children's behavior.</p> <p>Establish consistent routines and transitions; limit waiting or unoccupied time between activities.</p> <p>Limit classroom rules; establish clear consequences for violations and follow through on them; use positive guidance techniques.</p> <p>Anticipate problems and have action plans in place to avoid them; develop signals for when particular behaviors should stop or when a child needs help.</p> <p>Model and role-play appropriate social behaviors and coping strategies; label feelings behind children's actions and help children to label the feelings themselves.</p> <p>Provide soft lighting, cozy spaces, and calming activities (e.g., water play, soothing music).</p>

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2480 (September 2013).

§1103. Strategies to support English Language Learners (ELL) in Program Activities

A. "English language learners" means children who are working to learn a second language (often English in Louisiana) while continuing to develop their first (or home) language. Teachers can support the ELL children by providing a language-rich environment, by supporting their social/emotional development, and by working to develop an understanding of the language and cultures of the ELL students. The following strategies, though not an exhaustive list, are recommended practices for helping teachers work more effectively with ELL children, as well as their families.

What Teachers Can Do For Children	What Teachers Can Do For Families
<p>Provide a warm, welcoming learning environment.</p> <p>Learn some phrases in the child's home language that you can use when greeting the child or during daily activities.</p> <p>Encourage children to play and interact with one another.</p> <p>Provide environmental print in English and the child's home language.</p> <p>Model language by labeling your actions and the child's actions.</p> <p>Use visual cues or gestures when demonstrating a new skill or concept and repeat instructions more than once.</p> <p>Connect new concepts with familiar experiences.</p> <p>Provide books and songs within the classroom in the child's home language.</p> <p>At story time, choose repetitive books or books with simple language.</p> <p>Establish and maintain daily routines and schedules.</p> <p>Organize small group activities exclusively for your ELL children. Provide props in dramatic play that represent the child's culture.</p> <p>Provide an English-speaking buddy or partner for the ELL child.</p> <p>Provide a quiet space in the classroom where children can use manipulatives, puzzles, or playdough.</p>	<p>Understand the importance of the role you play and the impression you make on the family.</p> <p>Show interest in the child's family and culture.</p> <p>Gain information and knowledge about the child's community and culture.</p> <p>Have an open door policy.</p> <p>Use informal notes and phone calls to communicate with the family (you may need to use an interpreter).</p> <p>Post information on a bulletin board for parents in or near the classroom; include a display of children's artwork or photos.</p> <p>Develop family-friendly newsletters with pictures and photos, and translate as much of the newsletter as you can into the languages families in your group speak.</p> <p>Invite the families to the classroom to share their culture with the children.</p> <p>Organize family and community meetings and gatherings to learn more about cultural values and beliefs.</p> <p>Consider conducting home visits.</p> <p>Encourage families to continue the use of the native language at home.</p> <p>Consider the dietary, cultural and religious practices associated with the culture of the family when planning events.</p>

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2480 (September 2013).

Heather Cope
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1309#009

RULE

Board of Elementary and Secondary Education

Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools (LAC 28:XXXI.Chapters 1-15)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools*. Act 294 of the 2011 Legislature consolidated all drivers' education programs under the Louisiana Department of Public Safety and Corrections, which consequently removed all drivers' education programs and instruction from the Louisiana Department of Education. As such, the policies for driver's education services enumerated in Bulletin 1179 are no longer applicable.

**Title 28
EDUCATION**

**Part XXXI. Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools
Chapter 1. Rationale**

§101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999), repealed LR 39:2481 (September 2013).

Chapter 3. Format of Curriculum

§301. Goal of Driver Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999), repealed LR 39:2481 (September 2013).

§303. Overview of Instructional Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1217 (July 1999), repealed LR 39:2481 (September 2013).

§305. Structure and Format of Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1218 (July 1999), repealed LR 39:2481 (September 2013).

§307. Development of Lesson Plans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1218 (July 1999), repealed LR 39:2481 (September 2013).

Chapter 5. Administrative Policies

§501. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999), repealed LR 39:2481 (September 2013).

§503. Driver Education and Training Program for Children (R.S. 17:270)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999), amended LR 35:1488 (August 2009), LR 36:489 (March 2010), repealed LR 39:2481 (September 2013).

§505. Driver Education and Training; Fees (R.S. 17:271.1)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999), repealed LR 39:2481 (September 2013).

§507. Driver Education; Required (R.S. 32:402.1)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999), amended LR 35:1488 (August 2009), LR 36:490 (March 2010), LR 37:2137 (July 2011), repealed LR 39:2482 (September 2013).

§509. Learner's License; School Instruction Permit; Special Restrictions on Motorcycles (R.S. 32:422)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999), repealed LR 39:2482 (September 2013).

§511. SBESE Regulations Governing Driver Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1221 (July 1999), amended LR 30:2459 (November 2004), repealed LR 39:2482 (September 2013).

§513. Certification for Driver Education Teachers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999), repealed LR 39:2482 (September 2013).

§515. Plans for Utilizing Driver Simulators

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999), repealed LR 39:2482 (September 2013).

§517. Louisiana Department of Education Regulations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999), repealed LR 39:2482 (September 2013).

§519. Scheduling Driver Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999), repealed LR 39:2482 (September 2013).

§521. Recommended Minimum Insurance Coverage for the Driver Education Automobile

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1222 (July 1999), repealed LR 39:2482 (September 2013).

§523. Restriction on Use of the Driver Education Automobile

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999), repealed LR 39:2482 (September 2013).

§525. Proper Identification of the Driver Education Automobile

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999), repealed LR 39:2482 (September 2013).

§527. Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999), repealed LR 39:2482 (September 2013).

§529. Sources of Teaching Aids and Other Supplies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999), repealed LR 39:2482 (September 2013).

Chapter 7. Regulations Governing the Issuance of the Application and School Instruction Permit

§701. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1223 (July 1999), repealed LR 39:2482 (September 2013).

§703. The Application and School Instruction Permit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1224 (July 1999), repealed LR 39:2482 (September 2013).

§705. Procedures for Issuing Application and School Instruction Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1224 (July 1999), repealed LR 39:2482 (September 2013).

Chapter 9. Classroom Unit I Nature of Driving in the Highway Transportation System (HTS)

§901. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999), repealed LR 39:2482 (September 2013).

§903. Unit Objective

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999), repealed LR 39:2482 (September 2013).

§905. The HTS and the American Way of Life

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1226 (July 1999), repealed LR 39:2483 (September 2013).

§907. Our Complex Highway Transportation System

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1227 (July 1999), repealed LR 39:2483 (September 2013).

§909. The Requirements of Driving

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1227 (July 1999), repealed LR 39:2483 (September 2013).

§911. General Approaches for Unit I

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1228 (July 1999), repealed LR 39:2483 (September 2013).

Chapter 13. Classroom Unit III Traffic Law Observance and Enforcement

§1301. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1231 (July 1999), repealed LR 39:2483 (September 2013).

§1303. Unit Objective

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999), repealed LR 39:2483 (September 2013).

§1305. Nature of Traffic Laws and Enforcement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999), repealed LR 39:2483 (September 2013).

§1307. Traffic Law Enforcement by Police

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1232 (July 1999), repealed LR 39:2483 (September 2013).

§1309. Traffic Law Enforcement by Courts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1233 (July 1999), repealed LR 39:2483 (September 2013).

§1311. General Approaches for Unit III

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999), repealed LR 39:2483 (September 2013).

Chapter 15. Classroom Unit IV Motor Vehicle Capabilities and Limitations

§1501. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999), repealed LR 39:2483 (September 2013).

§1503. Unit Objective

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999), repealed LR 39:2483 (September 2013).

§1505. Basic Performance Capabilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1234 (July 1999), repealed LR 39:2483 (September 2013).

§1507. Factors and Forces That Affect Vehicle Control Capabilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1235 (July 1999), repealed LR 39:2483 (September 2013).

§1509. Performance Capabilities for Various Motor Vehicles

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1236 (July 1999), repealed LR 39:2483 (September 2013).

§1511. General Approaches for Unit IV

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1237 (July 1999), repealed LR 39:2483 (September 2013).

Heather Cope
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1309#019

RULE

Board of Elementary and Secondary Education

Bulletin 1934—Starting Points Preschool Regulations
(LAC 28:XXI.Chapters 1, 3, and 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 1934—Starting Points Preschool Regulations*. The Starting Points Program was replaced by the Cecil J. Picard LA 4 Program.

Title 28 EDUCATION

Part XXI. Bulletin 1934—Starting Points Preschool Regulations

Editor's Note: Bulletin 1934 was promulgated as a Rule in LR 19:1549 (December 1993) and LR 21:1220 (November 1995), and amended LR 24:295 (February 1998) in uncodified format. This bulletin became a codified document in February 1999 and historical notes will reflect activity from that time forward.

Chapter 1. General Provisions

§101. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:274 (February 2002), amended LR 30:1653 (August 2004), repealed LR 39:2484 (September 2013).

§103. Program Philosophy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:274 (February 2002), amended LR 30:1653 (August 2004), repealed LR 39:2484 (September 2013).

Chapter 3. Eligibility

§301. Eligibility Criteria

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:274 (February 2002), LR 30:1653 (August 2004), repealed LR 39:2484 (September 2013).

§303. Eligibility Verification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:275 (February 2002), amended LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

Chapter 5. Program Structure

§501. Health Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999)

amended LR 28:275 (February 2002), LR 30:1654 (August 2004), LR 32:1219 (July 2006), repealed LR 39:2484 (September 2013).

§503. Teacher Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

§505. Professional Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

§507. Parent Involvement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:254 (February 2002), amended LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

§509. Class Size Limitation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

§511. Length of School Day and School Year

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

§513. Daily Schedule

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), amended LR 30:1654 (August 2004), repealed LR 39:2484 (September 2013).

§515. Curriculum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:276 (February 2002), amended LR 30:1655 (August 2004), repealed LR 39:2484 (September 2013).

§517. Student Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), amended LR 30:1655 (August 2004), repealed LR 39:2484 (September 2013).

§519. Equipment, Materials, and Supplies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), amended LR 20:1655 (August 2004), repealed LR 39:2485 (September 2013).

§521. Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:1655 (August 2004), repealed LR 39:2485 (September 2013).

§523. Monitoring

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended, LR 27:1685 (October 2001), LR 28:276 (February 2002), LR 30:1655 (August 2004), repealed LR 39:2485 (September 2013).

§525. Religious Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), LR 30:1655 (August 2004), repealed LR 39:2485 (September 2013).

§527. Adherence to Regulations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), LR 30:1655 (August 2004), repealed LR 39:2485 (September 2013).

Heather Cope
Executive Director

1309#020

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Scholarship/Grant Programs—TOPS Equivalent Courses
(LAC 28:IV.703)**

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its scholarship/grant program rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking adds AP Human Geography as an equivalent to World Geography in the Taylor Opportunity Program for Students (TOPS) core curriculum. (SG13146R)

Title 28

EDUCATION

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant
Programs**

**Chapter 7. Taylor Opportunity Program for Students
(TOPS) Opportunity, Performance, and
Honors Awards**

§703. Establishing Eligibility

A. - A.5.a.ii.(a). ...

* * *

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced—Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math—Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry.	

(c). For students graduating in academic year (high school) 2009-2010, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry

Core Curriculum Course	Equivalent (Substitute) Course
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math—Pre-Calculus**, Advanced Math—Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry. **Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II. ***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II.	

(d). For students graduating in academic year (high school) 2010-2011 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math—Pre-Calculus**, Advanced Math—Functions and Statistics***
Chemistry	Chemistry Com
Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit);	Anatomy and Physiology
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry. **Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II. ***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II.	

A.5.a.iii.(a). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998),

amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013).

George Badge Eldredge
General Counsel

1309#005

RULE

Department of Environmental Quality Office of the Secretary Legal Division

Carbamate Treatment Standards (LAC 33:V.2299)(HW113ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.2299.Tables 2 and 7 (Log #HW113ft).

This Rule is identical to federal regulations found in 76 FR 113, 34147, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule adopts the revised federal treatment standards for carbamate wastes undergoing land disposal in Louisiana. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to maintain the Louisiana hazardous waste regulations equivalent to or more stringent than the corresponding federal regulations. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—
Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter B. Hazardous Waste Injection Restrictions

§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Table 2. Treatment Standards for Hazardous Wastes					
Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴

K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. ¹⁰	Acetonitrile	75-05-8	5.6	1.8
		Acetophenone	98-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl ¹⁰	17804-35-2	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Benzene	71-43-2	0.14	10
		Carbaryl ¹⁰	63-25-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbenzadim ¹⁰	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Carbofuran ¹⁰	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbosulfan ¹⁰	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl ¹⁰	16752-77-5	0.028; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
Pyridine	110-86-1	0.014	16		
Toluene	108-88-3	0.080	10		
Triethylamine ¹⁰	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST		
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		Methomyl ¹⁰	16752-77-5	0.028; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		o-Phenylenediamine—Repealed			
		Pyridine	110-86-1	0.014	16
Triethylamine ¹⁰	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST		

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes.	Benomyl—Repealed.			
		Benzene	71-43-2	0.14	10
		Carbenzadim ¹⁰	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Carbofuran ¹⁰	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
		Carbosulfan ¹⁰	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
K159	Organics from the treatment of thiocarbamate wastes. ¹⁰	Phenol	108-95-2	0.039	6.2
		Benzene	71-43-2	0.14	10
		Butylate ¹⁰	2008-41-5	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		EPTC (Eptam) ¹⁰	759-94-4	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Molinate ¹⁰	2212-67-1	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Pebulate ¹⁰	1114-71-2	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
K161	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust, and floor sweepings from the production of dithiocarbamate acids and their salts.	Vernolate ¹⁰	1929-77-7	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
		Antimony	7440-36-0	1.9	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/L TCLP
		Carbon disulfide	75-15-0	3.8	4.8 mg/L TCLP
		Dithiocarbamates (total) ¹⁰	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; or CMBST
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
		Nickel	7440-02-0	3.98	11 mg/L TCLP

P127	Carbofuran ¹⁰	Carbofuran	1563-66-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
P128	Mexacarbate ¹⁰	Mexacarbate	315-18-4	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P185	Tirpate ¹⁰	Tirpate	26419-73-8	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST
P188	Physostigmine salicylate ¹⁰	Physostigmine salicylate	57-64-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P189	Carbosulfan ¹⁰	Carbosulfan	55285-14-8	0.028; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P190	Metolcarb ¹⁰	Metolcarb	1129-41-5	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P191	Dimetilan ¹⁰	Dimetilan	644-64-4	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P192	Isolan ¹⁰	Isolan	119-38-0	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P194	Oxamyl ¹⁰	Oxamyl	23135-22-0	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
P196	Manganese dimethyldithiocarbamate ¹⁰	Dithiocarbamates (total)	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; or CMBST
P197	Formparanate ¹⁰	Formparanate	17702-57-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P198	Formetanate hydrochloride ¹⁰	Formetanate hydrochloride	23422-53-9	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P199	Methiocarb ¹⁰	Methiocarb	2032-65-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P201	Promecarb ¹⁰	Promecarb	2631-37-0	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P202	m-Cumenyl methylcarbamate ¹⁰	m-Cumenyl methylcarbamate	64-00-6	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P203	Aldicarb sulfone ¹⁰	Aldicarb sulfone	1646-88-4	0.056; or CMBST, CHOXD, BIODG or CARBN	0.28; or CMBST
P204	Physostigmine ¹⁰	Physostigmine	57-47-6	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
P205	Ziram ¹⁰	Dithiocarbamates (total)	NA	0.028; or CMBST, CHOXD, BIODG or CARBN	28; or CMBST

U271	Benomyl ¹⁰	Benomyl	17804-35-2	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U278	Bendiocarb ¹⁰	Bendiocarb	22781-23-8	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U279	Carbaryl ¹⁰	Carbaryl	63-25-2	0.006; or CMBST, CHOXD, BIODG or CARBN	0.14; or CMBST
U280	Barban ¹⁰	Barban	101-27-9	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST

U364	Bendiocarb phenol ¹⁰	Bendiocarb phenol	22961-82-6	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U367	Carbofuran phenol ¹⁰	Carbofuran phenol	1563-38-8	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U372	Carbendazim ¹⁰	Carbendazim	10605-21-7	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U373	Propham ¹⁰	Propham	122-42-9	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U387	Prosulfocarb ¹⁰	Prosulfocarb	52888-80-9	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U389	Triallate ¹⁰	Triallate	2303-17-5	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U394	A2213 ¹⁰	A2213	30558-43-1	0.042; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U395	Diethylene glycol, dicarbamate ¹⁰	Diethylene glycol, dicarbamate	5952-26-1	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U404	Triethylamine ¹⁰	Triethylamine	121-44-8	0.081; or CMBST, CHOXD, BIODG or CARBN	1.5; or CMBST

Table 2. Treatment Standards for Hazardous Wastes					
Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
U409	Thiophanate-methyl ¹⁰	Thiophanate-methyl	23564-05-8	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U410	Thiodicarb ¹⁰	Thiodicarb	59669-26-0	0.019; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST
U411	Propoxur ¹⁰	Propoxur	114-26-1	0.056; or CMBST, CHOXD, BIODG or CARBN	1.4; or CMBST

Footnote ¹ - Footnote ¹². ...

NOTE: NA—not applicable.

Table 3. - 6. ...

Table 7. Universal Treatment Standards			
Regulated Constituent—Common Name	CAS ¹ Number	Wastewater Standard Concentration ² in mg/L	Nonwastewater Standard Concentration ³ in mg/kg unless noted as "mg/L TCLP"
Organic Constituents			
* * *			
Aldicarb sulfone ⁶ —Repealed.			
* * *			
Barban ⁶ —Repealed.			
Bendiocarb ⁶ —Repealed.			
Benomyl ⁶ —Repealed.			
* * *			
Butylate ⁶ —Repealed.			
* * *			
Carbaryl ⁶ —Repealed.			
Carbenzadim ⁶ —Repealed.			
Carbofuran ⁶ —Repealed.			
Carbofuran phenol ⁶ —Repealed.			
* * *			
Carbosulfan ⁶ —Repealed.			
* * *			
m-Cumenyl methylcarbamate ⁶ —Repealed.			
* * *			
Dithiocarbamates (total) ⁶ —Repealed.			
EPTC ⁶ —Repealed.			
* * *			
Formetanate hydrochloride ⁶ —Repealed.			
* * *			
Methiocarb ⁶ —Repealed.			
Methomyl ⁶ —Repealed.			
* * *			
Metolcarb ⁶ —Repealed.			
Mexacarbate ⁶ —Repealed.			
Molinate ⁶ —Repealed.			
* * *			
Oxamyl ⁶ —Repealed.			
* * *			
Pebulate ⁶ —Repealed.			
* * *			
Physostigmine ⁶ —Repealed.			
Physostigmine salicylate ⁶ —Repealed.			
Promecarb ⁶ —Repealed.			
* * *			
Propham ⁶ —Repealed.			
Propoxur ⁶ —Repealed.			
Prosulfocarb ⁶ —Repealed.			
* * *			
Thiodicarb ⁶ —Repealed.			
Thiophanate-methyl ⁶ —Repealed.			
* * *			
Triallate ⁶ —Repealed.			

Table 7. Universal Treatment Standards			
Regulated Constituent—Common Name	CAS ¹ Number	Wastewater Standard Concentration ² in mg/L	Nonwastewater Standard Concentration ³ in mg/kg unless noted as "mg/L TCLP"
* * *			
Triethylamine ⁶ —Repealed.			
* * *			
Vernolate ⁶ —Repealed.			
* * *			
Inorganic Constituents			
* * *			

Footnote ¹. - Footnote ⁵. ...
⁶ Reserved.

Footnote ⁷. - Footnote ⁸. ...

NOTE: NA—not applicable.

Table 8. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:834 (September 1996), LR 23:566 (May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:828 (May 2006), LR 32:1843 (October 2006), LR 34:625 (April 2008), LR 34:1014 (June 2008), LR 38:777 (March 2012), amended by the Office of the Secretary, Legal Division, LR 39:2487 (September 2013).

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Executive Counsel

1309#016

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Division**

Removal of Saccharin from Hazardous Waste List
(LAC 33:V.2267, 2299, 3105, and 4901)(HW112ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.2267.A, 2299, Table 2, and 3105, Table 1 (Log #HW112ft).

This Rule is identical to federal regulations found in 75 FR 78918, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule adopts the removal of saccharin and its salts from regulation as hazardous constituents, hazardous wastes and hazardous substances in Louisiana. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to maintain the Louisiana hazardous waste regulations equivalent to or more stringent than the corresponding federal regulations. The basis and rationale of this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter B. Hazardous Waste Injection Restrictions

§2267. Waste-Specific Prohibitions—Third Third Wastes

A. Effective January 1, 1991, the wastes specified in LAC 33:V.Chapter 49 as F039 (wastewaters), K002, K003, K005, K006, K007, K026, K032, K033, K034, K036 (wastewaters), K093, K094, K100 (wastewaters), K100 (generated by the process described in the waste listing description and disposed of after August 17, 1989, and not generated in the course of treating wastewater forms of these wastes), P006, P009, P013, P017, P022, P023, P024, P028, P031, P033, P034, P038 (wastewaters), P042, P045, P046, P047, P051, P056, P064, P065 (wastewaters), P073, P075, P076, P077, P078, P088, P093, P095, P096, P099, P101, P103, P116, P118, P119, U001, U004, U006, U017, U024, U027, U030, U033, U034, U038, U039, U042, U045, U048, U052, U055, U056, U068, U071, U072, U075, U076, U079, U081, U082, U084, U085, U087, U088, U090, U091, U096, U102, U112, U113, U117, U118, U120, U121, U123, U125, U126, U132, U136, U141, U145, U148, U152, U153, U156, U160, U166, U167, U181, U182, U183, U184, U186, U187, U190, U191, U194, U197, U201, U204, U207, U222, U225, U234, U236, U240, U243, U246, and U247 and the following wastes identified as hazardous based on a characteristic alone designated as D001, D004 (wastewaters), D005, D006, D008 (except for lead materials stored before secondary smelting), D009 (wastewaters), D010, D011, D012, D013, D014, D015, D016, and D017

and newly listed F025 are prohibited from underground injection.

B. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999), amended by the Office of the Secretary, Legal Division, LR 39:2491 (September 2013).

§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Table 2. Treatment Standards for Hazardous Wastes					
Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴

U202	Saccharin and salts—Repealed				

Footnote ¹. - Footnote ¹². ...

NOTE: NA—not applicable.

Table 3. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:834 (September 1996), LR 23:566 (May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:828 (May 2006), LR 32:1843 (October 2006), LR 34:625 (April 2008), LR 34:1014 (June 2008), LR 38:777 (March 2012), amended by the Office of the Secretary, Legal Division, LR 39:2492 (September 2013).

Chapter 31. Incinerators

§3105. Applicability

A. - E. ...

(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008), LR 34:1898 (September 2008), LR 34:2396 (November 2008), LR 35:1880 (September 2009), LR 35:2350 (November 2009), amended by the Office of the Secretary, Legal Division, LR 39:2492 (September 2013).

Chapter 49. Lists of Hazardous Wastes

Editor's Note: Chapter 49 is divided into two Sections: category I hazardous wastes, which consist of hazardous wastes from nonspecific and specific sources (F and K wastes), acute hazardous wastes (P wastes), and toxic wastes (U wastes) (LAC 33:V.4901); and category II hazardous wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).

§4901. Category I Hazardous Wastes

A. - F. ...

Table 4. Toxic Wastes (Alphabetical Order by Substance)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)

U202—Repealed.		

U202—Repealed.		

¹ CAS number given for parent compound only		

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)

U202—Repealed.		
U202—Repealed.		

¹ CAS number given for parent compound only		

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number

Saccharin—Repealed.			
Saccharin salts—Repealed.			

¹ The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479

G. - G, Table 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2180.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182

(March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829, 840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:831 (May 2006), LR 33:1627 (August 2007), LR 34:635 (April 2008), LR 34:1020 (June 2008), LR 34:2392 (November 2008), LR 36:2555 (November 2010), LR 38:780 (March 2012), amended by the Office of the Secretary, Legal Division, LR 39:2492 (September 2013).

Herman Robinson, CPM
Executive Counsel

1309#015

RULE

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Building Code (LAC 34:III.131)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control has amended Title 34, Part III, Facility Planning and Control, Chapter 1, Capital Improvement Projects, Section 131, Louisiana building code for state-owned buildings. These rule changes are the result of a review by Facility Planning and Control of the editions of the codes specified by R.S. 40:1722 and the most recent editions of these codes. This review has led to the determination that new editions of these codes will provide a higher standard than the currently referenced editions. Facility Planning and Control is, therefore, establishing the appropriate editions of these codes as the standards.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§131. Louisiana Building Code

A. ...

1. the *Life Safety Code*, Standard 101, 2012 edition as published by the National Fire Protection Association;

2. ...

3. the *International Building Code*, 2012 edition as published by the International Code Council, not including chapter 1, administration, chapter 11, accessibility, chapter 27, electrical, and chapter 29, plumbing systems;

4. the *International Mechanical Code*, 2012 edition as published by the International Code Council;

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 33:2649 (December 2007), LR 37:3260 (November 2011), LR 39:2493 (September 2013), effective on January 1, 2014.

John L. Davis
Director

1309#028

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Pick Six (LAC 35:XIII.11003)

The Louisiana State Racing Commission hereby adopts Pick Six, LAC 35:XIII.11003, as follows.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 110. Pick Five or Pick Six

§11003. Pick Six

A. The pick six pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

B. A pick six pari-mutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the pick six provisions and rules.

C. A pick six may be given a distinctive name by the association conducting the meeting, subject to approval of the commission.

D. The pick six pari-mutuel pool consists of amounts contributed for a selection for win only in each of six races designated by the association with the approval of the commission. Each person purchasing a pick six ticket shall designate the winning horse in each of the six races comprising the pick six.

E. Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the pick six shall race as a single wagering interest for the purpose of the pick six pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the pick six calculation and the selection shall not be deemed a scratch.

F. The pick six pari-mutuel pool shall be calculated as follows.

1. The net amount in the pari-mutuel pool referred to in this Section is defined as the pari-mutuel pool created by pick six wagering on that particular day and does not include any amounts carried over from previous days' betting as

provided by in Subparagraph F.3.a and Subparagraph F.4.a below.

2. One hundred percent of the net amount in the pari-mutuel pool is subject to distribution to a single unique winning ticket holder, plus any carryover resulting from provisions of Paragraph F.3 and Paragraph F.4 shall be distributed to the unique winning ticket holder of the single pari-mutuel ticket which correctly designates the official winner in each of the six races comprising the pick six.

3. In the event there is more than one pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick-six.

4. In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the pick six, the net pari-mutuel pool shall be distributed as follows.

a. Fifty percent of the net amount in the pari-mutuel pool shall be retained by the association as distributable amounts and shall be carried over to the next succeeding racing day as an additional net amount to be distributed as provided in Paragraph F.2.

b. Fifty percent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the most official winners, but less than six, in each of the six races comprising the pick six.

5. Should no distribution be made pursuant to Paragraph F.1 on the last day of the association meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day or night; the provisions of Subsections I and J have no application on said last day.

G. In the event a pick six ticket designates a selection in any one or more of the races comprising the pick and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. In the event the amount wagered in the win pool on two or more favorites is identical, the favorite with the lowest number on the program will be designated as the actual favorite.

H. In the event of a dead heat for win between two or more horses in any pick six race, all such horses in the dead heat for win shall be considered as winning horses in that race for the purpose of calculating the pool.

I. No pick six shall be refunded except when all of the races comprising the pick six are canceled or declared as "no

contest." The refund shall apply only to the pick six pool established on that racing card. Any net pool carryover accrued from a previous pick six feature shall be further carried over to the next scheduled pick six feature operated by the association.

J. In the event that any number of races less than six comprising the pick six are completed, 100 percent of the net pool for the pick six shall be distributed among holders of pari-mutuel tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick six pool in which less than six races have been completed. Any net pool carryover accrued from a previous pick six feature shall be further carried over to the next scheduled pick six pool operated by the association.

K. No pari-mutuel ticket for the pick six pool shall be sold, exchanged or canceled after the time of the closing of wagering in the first of the six races comprising the pick six, except for such refunds on pick six tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick six pool or the number or amount of tickets selecting winners of pick six races until such time as the stewards have determined the last race comprising the pick six each day to be official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 39:2493 (September 2013).

Charles A. Gardiner III
Executive Director

1309#109

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers
Adult Day Health Care
(LAC 50:XXI.2101, 2103, 2105, 2107, 2301,
2305, 2501, 2503, 2701, 2703, and 2901)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.Chapters 21, 23, 25, 27 and 2901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2101. Introduction

A. - B. ...

C. Any provider of services under the ADHC waiver shall abide by and adhere to any federal or state laws, rules,

policy, procedures, or manuals issued by the department. Failure to do so may result in sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2565 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2494 (September 2013).

§2103. Program Description

A. ...

B. The target population for the ADHC Waiver Program includes individuals who:

1. ...

2. 22 to 64 years old and with a physical disability; and

3. ...

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2624 (September 2011), LR 39:2495 (September 2013).

§2105. Request for Services Registry

[Formerly §2107]

A. ...

B. Individuals who desire their name to be placed on the ADHC waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who pass this screen shall be added to the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2495 (September 2013).

§2107. Programmatic Allocation of Waiver Opportunities

A. ...

B. Adult day health care waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for ADHC waiver opportunities in the order listed:

1. - 2. ...

3. individuals admitted to a nursing facility who are approved for a stay of more than 90 days; and

B.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and

Adult Services, LR 37:2624 (September 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2495 (September 2013).

Chapter 23. Services

§2301. Covered Services

A. The following services are available to recipients in the ADHC waiver. All services must be provided in accordance with the approved plan of care (POC). No services shall be provided until the POC has been approved.

1. Adult Day Health Care. ADHC services furnished as specified in the plan of care at the ADHC center, in a non-institutional, community-based setting encompassing both health/medical and social services needed to ensure the optimal functioning of the participant. Services are furnished on a regularly scheduled basis, not to exceed 10 hours a day, 50 hours a week. An adult day health care center shall, at a minimum, furnish the following services:

a. assistance with activities of daily living;

b. ...

c. individualized, exercise program;

d. individualized, goal directed recreation program;

e. health education classes;

f. meals shall not constitute a "full nutritional regimen" (three meals per day) but shall include a minimum of two snacks and a nutritional lunch;

g. individualized health/nursing services;

g.i. - NOTE. ...

h. transportation to and from the center at the beginning and end of the program day;

i. transportation to and from medical and social activities when the participant is accompanied by center staff; and

j. transportation between the participant's place of residence and the ADHC in accordance with licensing standards.

2. Support Coordination. These services assist participants in gaining access to necessary waiver and other state plan services, as well as needed medical, social, educational, housing, and other services, regardless of the funding source for these services. Support coordination agencies shall be required to perform the following core elements of support coordination:

a. intake;

b. assessment;

c. plan of care development and revision;

d. linkage to direct services and other resources;

e. coordination of multiple services among multiple providers;

f. monitoring/follow-up;

g. reassessment;

h. evaluation and re-evaluation of level of care and need for waiver services;

i. ongoing assessment and mitigation of health, behavioral and personal safety risk;

j. responding to participant crises;

k. critical incident management; and

l. transition/discharge and closure.

3. Transition Intensive Support Coordination. These services will assist participants currently residing in nursing facilities in gaining access to needed waiver and other state plan services, as well as needed medical, social, housing, educational and other services regardless of the funding

source for these services. Support coordinators shall initiate and oversee the process for assessment and reassessment, as well as be responsible for ongoing monitoring of the provision of services included in the participants approved POC. This service is paid up to 180 days prior to transitioning from the nursing facility when adequate pre-transition support and activity are provided and documented. This service is available to participants during transition from a nursing facility to the community.

4. Transition Service. These services that will assist an individual transition from a nursing facility to a living arrangement in a private residence where the individual is directly responsible for his/her own living expenses are time limited, non-recurring set-up expenses available for individuals who have been offered and approved for an adult day health care waiver opportunity and are transitioning from a nursing facility to a living arrangement in a private residence where the individual is directly responsible for his/her own expenses. Allowable expenses are those necessary to enable the individual to establish a basic household that does not constitute room and board, but include:

- a. security deposits that are required to obtain a lease on an apartment or house;
- b. specific set up fees or deposits (telephone, electric gas, water and other such necessary housing set-up fees or deposits); and
- c. essential furnishings to establish basic living arrangements; and health and welfare assurances (pest control/eradication, fire extinguisher, smoke detector and first aid supplies/kit).

B. These services must be prior approved in the participant's plan of care.

C. These services do not include monthly rental, mortgage expenses, food, monthly utilities charges and household appliances and/or items intended for purely diversional/recreational purposes.

D. These services may not be used to pay for furnishings or set-up living arrangements that are owned or leased by a waiver provider.

E. Support coordinators shall exhaust all other resources to obtain these items prior to utilizing the waiver. Funds are available one time per \$1500 lifetime maximum for specific items as prior approved in the participant's POC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2495 (September 2013).

§2305. Plan of Care

A. The applicant and support coordinator have the flexibility to construct a plan of care that serves the participant's health and welfare needs. The service package provided under the POC shall include services covered under the adult day health care waiver in addition to services covered under the Medicaid state plan (not to exceed the established service limits for either waiver or state plan

services) as well as other services, regardless of the funding source for these services.

1. All services approved pursuant to the POC shall be medically necessary and provided in a cost-effective manner.

2. The POC shall be developed using a person-centered process coordinated by the support coordinator.

B. Reimbursement shall not be made for adult day health care waiver services provided prior to the department's, or its designee's, approval of the POC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2496 (September 2013).

Chapter 25. Admission and Discharge Criteria

§2501. Admission Criteria

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. meets the target population criteria as specified in the approved waiver document;
2. initial and continued Medicaid financial eligibility;
3. initial and continued eligibility for a nursing facility level of care;
4. justification, as documented in the approved POC, that the ADHC waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual; and
5. reasonable assurance that the health and welfare of the individual can be maintained in the community with the provision of ADHC waiver services.

B. Failure of the individual to cooperate in the eligibility determination process, POC development, or to meet any of the criteria above shall result in denial of admission to the ADHC waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), amended by the Department Of Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2496 (September 2013).

§2503. Admission Denial and Discharge Criteria

A. - A.4. ...

5. The health and welfare of the individual cannot be assured through the provision of ADHC waiver services.

6. The individual fails to cooperate in the eligibility determination process, POC development, or in the performance of the POC.

7. - 8. ...

9. The individual fails to maintain a safe and legal home environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2496 (September 2013).

Chapter 27. Provider Responsibilities

§2701. General Provisions

A. - B. ...

C. Any provider of services under the ADHC waiver shall not refuse to serve any individual who chooses their agency unless there is documentation to support an inability to meet the individual's health, safety and welfare needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

1. OAAS, or its designee, must be immediately notified of the circumstances surrounding a refusal by a provider to render services.

2. This requirement can only be waived by OAAS or its designee.

D. Providers must maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department, or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office for Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2497 (September 2013).

§2703. Reporting Requirements

A. Support coordinators and direct service providers, including ADHC providers, are obligated to report within specified time lines, any changes to the department that could affect the waiver participant's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. Support coordinators and direct service providers, including ADHC providers, are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department or its designee with the specified requirements within specified time lines.

C. Support coordinators shall provide the participant's approved POC to the ADHC provider in a timely manner.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2497 (September 2013).

Chapter 29. Reimbursement

§2901. General Provisions

A. ...

B. Reimbursement shall not be made for ADHC waiver services provided prior to the department's approval of the POC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2257 (December 2006), LR 34:2164 (October 2008), repromulgated LR 34:2569 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2497 (September 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert
Secretary

1309#092

RULE

Department of Health and Hospitals Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice

Policy Clarifications and Self-Direction Service Initiative
(LAC 50:XXI.Chapters 111-123)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.11101-11103 and Chapters 113-121, and to adopt §§11104, 11529 and Chapter 123 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11101. Introduction

A. ...

B. The children's choice waiver is an option offered to children on the developmental disabilities request for Services Registry (DDRFSR) or as identified in §11105 or §11107. Families may choose to accept a children's choice waiver offer or remain on the DDRFSR.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for

Citizens with Developmental Disabilities, LR 35:1891 (September 2009), LR 39:2497 (September 2013).

§11103. Participant Qualifications and Admissions

Criteria

A. The children's choice waiver is available to children who:

1. ...
2. have a developmental disability as specified in R.S. 28:451.2;
3. are on the DDRFSR unless otherwise specified in §11105 and §11107;
4. meet all of the financial and non-financial Medicaid eligibility criteria for a home and community-based services (HCBS) waiver;
5. meet the requirements for an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care, which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;
6. meet the assurance requirements that the health and welfare of the individual can be maintained in the community with the provision of children's choice services;
7. have justification, as documented in the approved plan of care, that the children's choice services are appropriate, cost effective and represent the least restrictive environment for the individual;
8. are residents of Louisiana; and
9. are citizens of the United States or a qualified alien.

B. ...

C. Children who reach their nineteenth birthday while participating in the children's choice waiver will transfer into an appropriate waiver for adults as long as they remain eligible for waiver services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), LR 39:2498 (September 2013).

§11104. Admission Denial or Discharge Criteria

A. Individuals shall be denied admission to or discharged from the children's choice waiver if one of the following criteria is met:

1. the individual does not meet the financial eligibility requirements for the Medicaid Program;
2. the individual does not meet the requirements for ICF/DD level of care;
3. the individual is incarcerated or placed under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. the individual resides in another state or has a change of residence to another state;
5. the participant is admitted to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services:
 - a. The waiver participant may return to waiver services when documentation is received from the treating physician that the admission is temporary and shall not exceed 90 days.
 - b. The participant will be discharged from the waiver on the ninety-first day if the participant is still in the ICF/DD or nursing facility.

6. the health and welfare of the individual cannot be assured through the provision of children's choice services within the individual's approved plan of care;

7. the individual fails to cooperate in the eligibility determination/re-determination process and in the development or implementation of the approved plan of care;

8. continuity of services is interrupted as a result of the participant not receiving a children's choice service during a period of 30 or more consecutive days:

a. This does not include interruptions in children's choice services because of hospitalization, institutionalization (such as ICFs/DD or nursing facilities), or non-routine lapses in services where the family agrees to provide all needed or paid natural supports.

b. There must be documentation from the treating physician that this interruption will not exceed 90 days.

c. During this 90-day period, the Office for Citizens with Developmental Disabilities (OCDD) will not authorize payment for children's choice services.

B. Children who reach their nineteenth birthday while participating in the children's choice waiver will transfer into an appropriate waiver for adults as long as they remain eligible for waiver services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498.

Chapter 113. Service

§11301. Service Cap

A. ...

B. Participants are eligible to receive all medically necessary Medicaid State Plan services, including early periodic screening, diagnosis, and treatment (EPSDT) services.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2440 (November 2007), LR 37:2157 (July 2011), amended LR 39:507 (March 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498.

§11303. Service Definitions

A. ...

1. Children's choice services may be utilized to supplement EPSDT State Plan services that are prior approved as medically necessary.

2. Children's choice family supports services cannot be provided on the same day at the same time as EPSDT's personal care services.

3. Children's choice family supports services cannot be provided on the same day at the same time as any other children's choice waiver service except for the following:

- a. environmental accessibility adaptations;
- b. family training;
- c. specialized medical equipment and supplies; or
- d. support coordination.

4. Children's choice services cannot be provided in a school setting.

5. Services provided through a program funded under the Individuals with Disabilities Education Act (IDEA) must be utilized before accessing children's choice therapy services.

B. Support coordination consists of the coordination of services which will assist participants who receive children's choice services in gaining access to needed waiver and other Medicaid services, as well as needed medical, social, educational and other services, regardless of the funding source. The support coordinator is responsible for convening the person-centered planning team comprised of the participant, participant's family, direct service providers, medical and social work professionals, as necessary, and advocates who assist in determining the appropriate supports and strategies to meet the participant's needs and preferences. The support coordinator shall be responsible for the ongoing coordination of supports and services included in the participant's plan of care. Support coordinators shall initiate the process of assessment and reassessment of the participant's level of care and the review of plans of care as required.

1. Support coordination services are provided to all children's choice participants to assist them in gaining access to needed waiver services, Medicaid State Plan services, as well as needed medical, social, educational and other services regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing support coordination.

a. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved plan of care.

b. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's plan of care.

c. Support coordinators will have limited annual plan of care approval authority as authorized by OCDD as indicated in policy and procedures.

2. Support coordinators are responsible for providing assistance to participants who choose self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

3. Provider Qualifications. Providers must have a current, valid support coordination license and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

C. Center-based respite is service provided in a licensed respite care facility to participants unable to care for themselves. These services are furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care.

D. Environmental accessibility adaptations are physical adaptations to the home or vehicle provided when required by the participant's plan of care as necessary to ensure the health, welfare and safety of the participant, or which enable the participant to function with greater independence in the

community, and without which the participant would require additional supports or institutionalization.

1. Such adaptations to the home may include:

a. the installation of ramps and/or grab-bars;

b. widening of doorways;

c. modification of bathroom facilities; or

d. installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies which are necessary for the welfare of the participant.

2. ...

3. Home modification funds are not intended to cover basic construction cost. For example, in a new home, a bathroom is already part of the building cost. Waiver funds can be used to cover the difference between constructing a bathroom and building an accessible or modified bathroom.

4. All services shall be in accordance with applicable state and local building codes.

5. An example of adaptation to the vehicle is a van lift.

6. Excluded is the purchase or lease of a vehicle and regularly scheduled upkeep and maintenance of a vehicle except upkeep and maintenance of the modifications.

7. Excluded are those adaptations or improvements to the home or vehicle which are of general utility, and are not of direct medical or remedial benefit to the participant, such as carpeting, roof repair, central air conditioning, a fence, etc.

8. Fire alarms, smoke detectors, and fire extinguishers are not considered environmental adaptations and are excluded.

9. Any services covered by Title XIX (Medicaid State Plan Services) are excluded.

E. Family training consists of formal instruction offered through training and education designed to assist the families of children's choice waiver participants in meeting the needs of their children.

1. The training and education must be conducted by professional organizations or practitioners who offer education or training appropriate to the needs of the child as identified in the plan of care.

2. Family training must be prior approved by the OCDD regional offices or human services authorities or districts and incorporated into the approved plan of care.

3. For purposes of this service only, "family" is defined as unpaid persons who live with or provide care to a participant in the children's choice waiver and may include a parent, spouse, stepparent, grandparent, child, sibling, relative, foster family, legal guardian, or in-law.

4. ...

F. Family support services are services that enable a family to keep their child or family member at home, thereby enhancing family functioning. Services may be provided in the home or outside of the home in settings such as after school programs, summer camps, or other places as specified in the approved plan of care. Family support includes:

1. assistance and prompting with eating, bathing, dressing, personal hygiene, and essential housekeeping incidental to the care of the child, rather than the child's family. The preparation of meals is included, but not the cost of the meals themselves; and

2. ...

3. Family members who provide family support services must meet the same standards of service, training requirements and documentation requirements as caregivers who are unrelated to the participant. Services cannot be provided by the following:

- a. legally responsible relatives (spouses, parents or step-parents, foster parents, or legal guardians); or
- b. any other individuals who live in the same household with the waiver participant.

G. Specialized Medical Equipment and Supplies.

1. Specialized medical equipment and supplies are devices, controls, or appliances, as specified in the plan of care, which enable participants to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live.

2. This service also includes items necessary for life support, ancillary supplies and equipment necessary for the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State plan. Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the State plan and shall exclude those items which are not of direct medical or remedial benefit to the participant.

3. All items shall meet applicable standards of manufacture, design and installation.

4. This service may also be used for routine maintenance or repair of specialized equipment. Some examples would include sip and puffer switches; other specialized switches; and voice-activated, light-activated, or motion-activated devices to access the participant's environment.

5. Routine maintenance or repair of specialized medical equipment is funded under this service.

6. Excluded are those durable and non-durable items that are available under the Medicaid State Plan. The Support Coordinator shall pursue and document all alternate funding sources that are available to the participant before submitting a request for approval to purchase or lease specialized medical equipment and supplies.

7. Excluded are those specialized equipment and supplies that are not of direct medical or remedial benefit to the participant such as, but not limited to:

- a. appliances;
- b. personal computers and software;
- c. daily hygiene products;
- d. rent subsidy;
- e. food;
- f. bed linens;
- g. exercise equipment;
- h. taxi fares, bus passes, etc;
- i. pagers and telephones; and
- j. home security systems.

H. Applied Behavioral Analysis-Based Therapy

1. Applied behavioral analysis (ABA)based therapy is used to assess, teach and modify targeted behaviors in promoting social, emotional and language development by reducing behaviors that interfere with learning and cognitive functioning.

2. ABA-based therapies utilized are based on reliable evidence and not experimental.

3. Services must be provided by a licensed Psychologist or an unlicensed assistant with a Master's degree working under the direction of a licensed Psychologist. All work performed by the unlicensed assistant must be approved by the licensed Psychologist.

I. Aquatic Therapy

1. Aquatic therapy uses the resistance of water to rehabilitate a participant with a chronic illness, poor or lack of muscle tone or a physical injury/disability.

2. Aquatic therapy is not for participants who have fever, infections and are bowel/ bladder incontinent.

J. Art Therapy

1. Art therapy is used to increase awareness of self and others; cope with symptoms, stress and traumatic experiences; enhance cognitive abilities; and as a mode of communication and enjoyment of the life-affirming pleasure of making art.

2. Art therapy is the therapeutic use of art by people who experience illness, trauma, emotional, behavioral or mental health problems; by those who have learning or physical disabilities, life-limiting conditions, brain injuries or neurological conditions and/or challenges in living; and by people who strive to improve personal development.

K. Music Therapy

1. Music therapy services help participants improve their cognitive functioning, motor skills, emotional and affective development, behavior and social skills and quality of life.

L. Sensory Integration

1. Sensory integration is used to improve the way the brain processes and adapts to sensory information, as opposed to teaching specific skills. Sensory integration involves activities that provide vestibular, proprioceptive and tactile stimuli which are selected to match specific sensory processing deficits of the child.

M. Hippotherapy/Therapeutic Horseback Riding

1. Hippotherapy/therapeutic horseback riding are services used to promote the use of the movement of the horse as a treatment strategy in physical, occupational and speech-language therapy sessions for people living with disabilities.

2. Hippotherapy improves muscle tone, balance, posture, coordination, motor development as well as motor planning that can be used to improve sensory integration skills and attention skills.

a. Specially trained therapy professionals evaluate each potential participant on an individual basis to determine the appropriateness of including hippotherapy as a treatment strategy.

b. Hippotherapy requires therapy sessions that are one-on-one with a licensed physical therapist, speech therapist or occupational therapist who works closely with the horse professional in developing treatment strategies. The licensed therapist must be present during the hippotherapy sessions.

c. Hippotherapy must be ordered by a physician with implementation of service, treatment strategies and goals developed by a licensed therapist. Services must be included in the participant's plan of care.

3. Therapeutic horseback riding teaches riding skills and improves neurological function and sensory processing.

a. Therapeutic horseback riding must be ordered by a physician with implementation of service, treatment strategies and goals developed by a licensed therapist. Services must be included in the participant's plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Disabilities, LR 36:324 (February 2010), LR 39:2498.

Chapter 115. Providers

Subchapter A. Provider Qualifications

§11501. Support Coordination Providers and Service Providers

A. Support Coordination Providers. Families of waiver participants shall choose one support coordination agency from those available in their region to provide developmental disabilities support coordination services.

B. Service Providers. Agencies licensed to provide personal care attendant services may enroll as a provider of children's choice services with the exception of support coordination services and therapy services. Agencies that enroll to be a children's choice service provider shall provide family support services, and shall either provide or subcontract for center-based respite, environmental accessibility adaptations, family training, and specialized medical equipment and supplies. Families of participants shall choose one service provider agency from those available in their region that will provide all waiver services, except support coordination.

1. Family members who provide family support services must meet the same standards of service, training requirements and documentation requirements, as caregivers who are unrelated to the participant. Service cannot be provided by the following:

- a. legally responsible relatives (spouses, parents or step-parents, foster parents, or legal guardians); or
- b. any other individuals who live in the same household with the waiver participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1984 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501.

Subchapter B. Provider Requirements

§11521. General Requirements for Medicaid Enrollment

A. In order to participate in the Medicaid Program, a provider must meet all of the following requirements.

1. The provider must meet all the requirements for licensure as established by state laws and rules promulgated by the Department of Health and Hospitals (DHH) or have a current, valid license or certification from the appropriate governing board for that profession.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1984 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013).

§11523. Enrollment

A. Both support coordination and direct services providers must comply with the requirements of this §11523 in order to participate as Children Choice providers. Agencies will not be added to the Freedom of Choice (FOC) list of available providers maintained by OCDD until they have received a Medicaid provider number.

B. Providers shall attend all mandated meetings and training sessions as directed by OCDD as a condition of enrollment and continued participation as waiver providers. Attendance at a provider enrollment orientation shall be required prior to enrollment as a Medicaid provider of services. The frequency of the provider enrollment orientations shall be determined by the DHH Health Standards Section.

C. ...

D. Participant case records and billing records shall be housed at the site in the DHH administrative region where the participant resides.

E. - G. ...

H. Providers shall develop a Quality Improvement Plan which must be submitted for approval within 60 days after the DHH training. Self-assessments are due six months after approval of the plan and yearly thereafter.

I. - K. ...

L. Waiver services are to be provided only to persons who are waiver participants, and strictly in accordance with the provisions of the approved plan of care.

M. Changes in the following areas are to be reported to both OCDD and the Provider Enrollment Section in writing at least 10 days prior to any change:

1. 5....

N. The provider must complete a new provider enrollment packet when a change in ownership of 5 percent to 50 percent of the controlling interest occurs, but may continue serving participants. When 51 percent or more of the controlling interest is transferred, a complete re-certification process must occur and the agency shall not continue serving participants until the re-certification process is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1984 (September 2002), amended LR 28:2533 (December 2002), repromulgated LR 29:38 (January 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013).

§11527. Direct Service Providers

A. Direct service providers, except those listed in §11529, must also comply with §11527 in order to participate as children's choice providers.

1. The provider must be licensed by the DHH as a home and community-based services provider and meet the

module specific requirements for the services being provided.

2. ...

3. The following services may either be provided directly by the direct service provider or by written agreement (subcontract) with other agents. The actual provider of the service, whether it is the direct service provider or a subcontracted agent, shall meet the following licensure or other qualifications

a. Center-based respite must be provided by a facility licensed by DHH and meet all module specific requirements for the service.

b. Family training must be provided at approved events.

c. Environmental adaptations must be provided by an individual/agency deemed capable to perform the service by the participant's family and the direct service provider agency. When required by state law, the person performing the service must meet applicable requirements for a professional license. When building code standards are applicable, modifications to the home shall meet such standards.

d. Specialized Medical Equipment and Supplies agencies who are vendors of technological equipment and supplies must be enrolled in the Medicaid Program as a durable medical equipment provider and must meet all applicable vendor standards and requirements for manufacturing, design and installation of technological equipment and supplies.

4. Providers shall maintain a 24-hour toll-free telephone number manned by a person and shall provide a written plan to the participants, families and support coordinators that explains how workers can be contacted and the expected response time.

5. Providers shall develop and provide brochures to interested parties that document the agency's experience, toll-free telephone number, OCDD information, and other pertinent information. All brochures are subject to OCDD approval prior to distribution.

6. - 7. ...

8. The agency shall document that its employees and the employees of subcontractors do not have a criminal record as defined in 42 CFR 441.404(b) which states, Providers of community supported living arrangements services:

8.a. - 10. ...

11. Enrollment of direct service providers is contingent on the submission of a complete application packet.

12. Service delivery shall be documented with progress notes on participant status, supports provided that address personal outcomes, participant responses, etc. Progress notes shall be dated and signed in ink. Whiteout is not to be used in making corrections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501.

§11529. Professional Services Providers

A. Professional services are direct services to participants, based on need, that may be utilized to increase the participant's independence, participation and productivity in the home and community. Service intensity, frequency and duration will be determined by individual need. Professional services include the following:

1. applied behavior analysis (ABA)-based therapy;
2. aquatic therapy;
3. art therapy;
4. music therapy;
5. sensory integration; and
6. hippotherapy/therapeutic horseback riding.

B. Professional services must be delivered with the participant present and in accordance with the plan of care.

C. Children's choice services cannot be provided on the same day at the same time as any other waiver or State Plan service except for the following services:

1. environmental accessibility adaptations;
2. family training;
3. specialized medical equipment and supplies;
4. support coordination; and
5. therapy

D. Children's choice services cannot be provided in a school setting.

E. Provider Qualifications

1. Individual practitioners must enroll as a Medicaid provider;
2. Have a current, valid license or certification from the appropriate governing board for that profession; and
3. Possess one year of post licensure or certification experience.

a. In addition, the specific service delivered must be consistent with the scope of the license or certification held by the professional.

F. All services rendered shall be prior approved and in accordance with the plan of care.

G. All services must be documented in service notes, which describes the services rendered and progress towards the participant's personal outcomes and his/her plan of care.

H. Providers of professional services must maintain adequate documentation to support service delivery and compliance with the approved plan of care and provide said documentation upon the DHH's request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501.

Chapter 117. Crisis Provisions

§11701. Participation in Children's Choice

A. Families must choose to either accept children's choice services or remain on the DDRFSR. This is an individual decision based on a family's current circumstances. In the event that a family chooses children's choice for their child and later experiences a crisis that increases the need for paid supports to a level that cannot be accommodated within the service cap specified in §11301.A on waiver expenditures, they may request consideration for a crisis designation. A crisis is defined as a catastrophic change in circumstances rendering the natural and

community support system unable to provide for the health and welfare of the child at the level of benefits offered under children's choice. The procedure in this Chapter has been developed to address these situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2502 (September 2013).

§11703. Crisis Designation Criteria

A. - A.5. ...

B. Exhausting available funds through the use of therapies, environmental accessibility adaptations, and specialized medical equipment and supplies does not qualify as justification for crisis designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1986 (September 2002), amended LR 29:704 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013).

§11705. Crisis Extension Provisions

A. Additional services (crisis support) outside of the waiver cap amount shall be approved by the OCDD state office. Crisis designation is time limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months or the annual plan of care date, not to exceed 12 months.

B. When the crisis designation is extended at the end of the initial duration (or at any time thereafter), the family may request the option of returning the child's name to the original application date on the DDRFSR when it is determined that the loss of the caregiver and lack of natural or community supports will be long term or permanent. This final determination will be made by OCDD. Eligibility and services through children's choice shall continue as long as the child meets eligibility criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013).

Chapter 119. Noncrisis Provisions

§11901. General Provisions

A. Restoring the participant to the DDRFSR under noncrisis provisions will allow that individual to be placed in the next available waiver slot that will provide the appropriate services, provided the participant is still eligible when a slot becomes available. The fact that the participant is being restored to the DDRFSR does not require that the department immediately offer him/her a waiver slot if all slots are filled or to make a slot available to this participant for which another participant is being evaluated, even

though that other participant was originally placed on the DDRFSR on a later date. Waiver services will not be terminated as a result of a participant's name being restored to the registry.

B. If another developmental disabilities waiver would provide the participant with the services at issue, the department may place the participant in any waiver that would provide the appropriate services.

C. In the event that the waiver eligibility, other than for the developmental disabilities waiver, of a person who elected or whose legal representative elected that they receive services under the children's choice waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the DDRFSR for the developmental disabilities waiver in the date order of the original request.

D. If and when a new adult waiver is adopted, a children's choice participant aging out of that program will be evaluated for both the capped waiver and the developmental disabilities waiver, and transferred to the waiver which services are most appropriate for him/her at that time, with a right of appeal of the department's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013).

§11903. Good Cause

A. A person who has elected or whose legal representative has elected that they receive services under children's choice waiver shall be allowed to restore his or her name to the DDRFSR for the developmental disabilities waiver in original date order, when they meet all of the following criteria:

1. he/she would benefit from the services that are available in the developmental disabilities waiver, but are not actually available to him or her through his/her current waiver or through Medicaid State Plan services; and

2. he/she would qualify for those services under the standards utilized for approving and denying the services to the developmental disabilities waiver participants; and

3. there has been a change in circumstances since his or her enrollment in the children's choice waiver that causes these other services to be appropriate. The change does not have to be a change in the participant's medical condition, but can include loss of in-home assistance through a caretaker's decision to take on or increase employment, or to obtain education or training for employment. (Note: The temporary absence of a caretaker due to a vacation is not considered good cause.); and

4. the person's original request date for the developmental disabilities waiver has been passed on to the DDRFSR.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1986 (September 2002), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503.

§11905. Determination Responsibilities and Appeals

A. The OCDD and human services authorities and districts shall have the responsibility for making the determinations as to the matters set forth in this Chapter 119. Persons who have elected or whose legal representatives have elected that they receive services under the children's choice waiver have the right to appeal any determination of the department as to matters set forth in this Chapter 119, under the regulations and procedures applicable to Medicaid fair hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013).

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. ...

B. Direct service providers shall be reimbursed according to the following reimbursement methodology. Actual rates will be published in the children's choice provider manual and will be subsequently amended by direct notification to the affected providers. For services provided by a subcontractor agency, the enrolled direct service provider shall coordinate and reimburse the subcontractor according to the terms of the contract and retain the administrative costs.

1. Family support, crisis support, center-based respite, applied behavior analysis (ABA-based therapy, aquatic therapy, art therapy, music therapy, sensory integration, and hippotherapy/therapeutic horseback riding services shall be reimbursed at a flat rate per 15-minute unit of service, which covers both service provision and administrative costs.

2. ...

3. Environmental accessibility adaptations and specialized medical equipment and supplies shall be reimbursed at cost plus a set administrative add-on per project.

B.4. - D.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), amended LR 36:2280 (October 2010), amended LR 37:2157 (July 2011), LR 39:2504 (September 2013).

Chapter 123. Self-Direction Initiative

§12301. Self-Direction Service Delivery Option

A. The self-direction initiative is a voluntary, self-determination option which allows the participant to coordinate the delivery of children's choice services, as designated by OCDD, through an individual direct support

professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the participant utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Participant Responsibilities. Waiver participants choosing the self-directed service delivery option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is under 18 years of age or is unable to make decisions independently, he/she must have an authorized representative who understands the rights, risks and responsibilities of managing his/her care and supports within his/her individual budget. The employer must be at least 18 years of age. Responsibilities of the participant or authorized representative include:

1. completion of mandatory trainings, including the rights and responsibilities of managing his/her own services and supports and individual budget;

2. participation in the self-direction service delivery option without a lapse in or decline in quality of care or an increased risk to health and welfare;

a. adhere to the health and welfare safeguards identified by the team, including the application of a comprehensive monitoring strategy and risk assessment and management systems;

3. participation in the development and management of the approved budget:

a. this annual budget is determined by the recommended service hours listed in the participant's plan of care to meet his/her needs;

b. the participant's individual budget includes a potential amount of dollars within which the participant or his/her authorized representative exercises decision-making responsibility concerning the selection of services and service providers.; and

c. an administrative fee will be deducted from the participant's approved budget;

4. all services rendered shall be prior approved and in accordance with the plan of care; and

5. all services must be documented in service notes, which describes the services rendered and progress towards the participant's personal outcomes and his/her plan of care.

C. Termination of the Self-Direction Service Option. Termination of participation in the self-direction service delivery option requires a revision of the plan of care, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary termination. The waiver participant may chose at any time to withdraw from the self-direction service delivery option and return to the traditional provider agency management of services.

2. Involuntary termination. The department may terminate the self-direction service delivery option for a participant and require him/her to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service delivery option;

b. the participant is no longer able to direct his/her own care and there is no authorized representative to direct the care;

- c. there is misuse of public funds by the participant or the authorized representative; or
- d. over three payment cycles in a one year period, the participant or authorized representative:
 - i. places barriers to the payment of the salaries and related state and federal payroll taxes of direct support staff;
 - ii. fails to follow the approved budget;
 - iii. fails to provide required documentation of expenditures and related items; or
 - iv. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 39:2504.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert
Secretary

1309#093

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Outpatient Hospital Services
Diabetes Self-Management Training
(LAC 50:V.Chapter 63)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 63 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 63. Diabetes Education Services

Subchapter A. General Provisions

§6301. Introduction

A. Effective for dates of service on or after February 20, 2011, the department shall provide coverage of diabetes self-management training (DSMT) services rendered to Medicaid recipients diagnosed with diabetes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2505 (September 2013).

§6303. Scope of Services

A. DSMT services shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period beginning with the initial training date. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management per calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2505 (September 2013).

§6305. Provider Participation

A. In order to receive Medicaid reimbursement, outpatient hospitals must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

B. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:
 - a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or
 - b. have recent didactic and experiential preparation in education and diabetes management.
2. At a minimum, the instructional team must consist of one the following professionals who is a CDE:
 - a. a registered dietician;
 - b. a registered nurse; or
 - c. a pharmacist.
3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

C. Members of the instructional team must be either employed by or have a contract with a Medicaid enrolled outpatient hospital that will submit the claims for reimbursement of outpatient DSMT services rendered by the team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2505 (September 2013).

Subchapter B. Reimbursement

§6311. Reimbursement Methodology

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall provide reimbursement for diabetes self-management training services rendered by qualified health care professionals in an outpatient hospital setting.

B. Reimbursement for DSMT services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2505 (September 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert
Secretary

1309#094

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Personal Care Services—Long-Term
Policy Clarifications and Service Limit Reduction
(LAC 50:XV.12901-12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XV.12901-12915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. Each recipient requesting or receiving long-term personal care services (LT-PCS) shall undergo a functional eligibility screening utilizing an eligibility screening tool called the level of care eligibility tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/recipient shall be assessed using a uniform assessment tool called the minimum data set-home care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures

the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

2. - 7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient is allocated less than 32 hours per week and believes that he/she is entitled to more hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and

b. to aid the recipient in obtaining all necessary documentation for these processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082

(November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013).

§12902. Participant Direction Option

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The La POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's roles and responsibility agreement.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013).

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

1. - 5. ...

6. ambulation;

7. toileting; and

8. bed mobility.

B. IADLs are those activities that are considered essential but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when

he/she is absent from the home. IADLs include tasks such as:

1. light housekeeping;

2. food preparation and storage;

3. shopping;

4. laundry;

5. assisting with scheduling medical appointments when necessary;

6. accompanying the recipient to medical appointments when necessary;

7. assisting the recipient to access transportation; and

8. reminding the recipient to take his/her medication as prescribed by the physician; and

9. medically non-complex tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

C. Emergency and nonemergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. ...

E. La POP participants may choose to use their services budgets to pay for items that increase their independence or substitute for their dependence on human assistance. Such items must be purchased in accordance with the policies and procedures established by OAAS.

F. Personal care services may be provided by one worker for up to three long-term personal care service recipients who live together and who have a common direct service provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013).

§12905. Eligibility Criteria

A. ...

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility and requires limited assistance with at least one or more activities of daily living;

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013).

§12907. Recipient Rights and Responsibilities

A. - A.2. ...

3. training the individual personal care worker in the specific skills necessary to maintain the recipient's independent functioning while maintaining him/her in the home;

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period.

Good Cause—the failure of the provider to furnish services in compliance with the plan of care. *Good cause* shall be determined by OAAS or its designee.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

1. ...

2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;

2.a. - 8....

9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;

10. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2508 (September 2013).

§12909. Standards for Participation

A. - A.1.c. ...

d. any federal or state laws, rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

2. ...

B. In addition, a Medicaid enrolled agency must:

1. maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said

documentation at the request of the department or its designee; and

2. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

3 - 12.c. Repealed.

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

C.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 39:2508 (September 2013).

§12910. La POP Standards for Participation

A. Direct service workers employed under LA POP must meet the same requirement as those hired by a PCS agency.

B. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

B.1. - C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 39:2508 (September 2013).

§12911. Staffing Requirements

A. All staff providing direct care to the recipient, whether they are employed by a PCS agency or a recipient participating in La POP, must meet the qualifications for furnishing personal care services per the licensing regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.3. Repealed.

C. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

a. the recipient's spouse;

b. the recipient's curator;

c. the recipient's tutor;

d. the recipient's legal guardian;

e. the recipient's designated responsible representative; or

f. the person to whom the recipient has given representative and mandate authority (also known as Power of Attorney).

D. - E.1.b. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2508 (September 2013).

§12912. Training

A. Training costs for direct service workers employed by La POP participants shall be paid out of the La POP participant's personal supports plan budget.

B. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013).

§12913. Service Delivery

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home.

1. - 4. Repealed.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

1 - 3. Repealed.

D. - E. ...

F. It is permissible for an LT-PCS recipient to use his/her approved LT-PCS weekly allotment flexibly provided that it is done so in accordance with the recipient's preferences and personal schedule and is properly documented in accordance with OAAS policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013).

§12915. Service Limitations

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

B. There shall be no duplication of services.

1. Personal care services may not be provided while the recipient is admitted to or attending a program which

provides in-home assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2509 (September 2013).

Kathy H. Kliebert
Secretary

1309#095

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Diabetes Self-Management Training
(LAC 50:IX.Chapter 7 and 15103)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:IX.Chapter 7 and §15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 7. Diabetes Education Services

§701. General Provisions

A. Effective for dates of service on or after February 20, 2011, the department shall provide coverage of diabetes self-management training (DSMT) services rendered to Medicaid recipients diagnosed with diabetes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2509 (September 2013).

§703. Scope of Services

A. DSMT shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period beginning with the initial training date. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management per calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2509 (September 2013).

§705. Provider Participation

A. In order to receive Medicaid reimbursement, professional services providers must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

B. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:
 - a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or
 - b. have recent didactic and experiential preparation in education and diabetes management.
2. At a minimum, the instructional team must consist of one the following professionals who are also a CDE:
 - a. a registered dietician;
 - b. a registered nurse; or
 - c. a pharmacist.
3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

C. Members of the instructional team must be either employed by or have a contract with a Medicaid enrolled professional services provider that will submit the claims for reimbursement of DSMT services rendered by the team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2510 (September 2013).

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter A. General Provisions

§15103. Diabetes Education Services

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall provide reimbursement for diabetes self-management training services rendered by qualified health care professionals.

B. Reimbursement for DSMT services shall be a flat fee based on the appropriate healthcare common procedure coding (HCPC) code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2510 (September 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kathy H. Kliebert
Secretary

1309#096

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.9003, 9009, 9077, 9093, and 9097)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.9003, §9009, §9077, §9093 and §9097 as authorized by R.S. 40:2179-2179.1. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

**Chapter 90. Psychiatric Residential Treatment
Facilities (under 21)**

Subchapter A. General Provisions

§9003. Definitions

A. ...

Normal Business Hours—between the hours of 7 a.m. and 6 p.m. every Monday-Friday, except for holidays.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September).

Subchapter B. Licensing

§9009. Initial Licensing Application Process

A. - C.4. ...

5. a copy of statewide criminal background checks on all individual owners with a 5 percent or more ownership interest in the PRTF entity, and on all administrators or managing employees;

C.6. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:373 (February 2012), amended LR 39:2510 (September 2013).

Subchapter F. Physical Environment

§9077. Interior Space

A. - T. ...

U. The provider shall have a laundry space complete with a minimum of one clothes washer and dryer for each 50 persons.

V. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:68 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:391 (February 2012), LR 39:2510 (September).

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. - A.2.a.iv. ...

b. The clinical director is responsible for the following:

i. providing a monthly minimum of one hour of on-site clinical direction per resident;

(a). the governing body may delegate some or all of this responsibility to another physician(s) who meets the qualifications of a clinical director; and

ii. ...

3. LMHPs, MHPs, and MHSs. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs, and MHSs to care for its residents. There shall be at least one LMHP or MHP supervisor on duty at least 40 hours/week during normal business hours at the facility and as required by the treatment plan. When not on duty at the facility, there shall be a LMHP or MHP on call. The PRTF shall develop a policy to determine the number of LHMPs, MHPs, MHSs on duty and the ratio of LHMPs and MHPs to MHSs based on the needs of its residents.

A.3.a. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013).

Subchapter I. Additional Requirements for Addictive Disorder PRTFs

§9097. Personnel Qualifications, Responsibilities, and Requirements for Addictive Disorder PRTFs

A. - A.2.a.iii.(c). ...

b. The clinical director is responsible for the following:

i. providing a monthly minimum of one hour of on-site clinical direction per resident;

(a). the governing body may delegate some or all of this responsibility to another physician(s) who meets the qualifications of a clinical director); and

ii. ...

3. LMHPs, MHPs and MHSs. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs to care for its residents. There shall be at least one LMHP or MHP supervisor on duty at least 40 hours/week during normal business hours at the facility and as required by the treatment plan. When not on duty at the facility, there shall be a LMHP or MHP on call. The PRTF shall develop a policy to determine the number of LHMPs, MHPs, MHSs on duty and the ratio of LHMPs and MHPs to MHSs based on the needs of its residents.

A.3.a. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:339 (February 2012), amended LR 39:2511 (September 2013).

Kathy H. Kliebert
Secretary

1309#097

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**CDL Driver's Licenses—Third-Party Testers
(LAC 55:III.117)**

In accordance with the provisions of R.S. 32:408, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles hereby amends LAC 55:III, Chapter 1, §117, adopting recent legislative changes regarding requirements to become a third-party tester or examiner for commercial driver's licenses, and to increase the fee third-party tester are authorized to charge applicants for administering the skills test for a commercial driver's license.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§117. Third-Party Testers

A. - A.10. ...

11. All CDL third-party testers shall execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in the sum of \$10,000. The bond shall name The Department of Public Safety and Corrections, Office of Motor Vehicles, as obligee. The bond shall remain in effect throughout the duration of the contract.

12. The CDL third-party tester shall require its examiners to annually submit to a fingerprint background check as part of the examiner application process. The third-party tester or the examiners employed by the tester shall pay any fees charged in connection with the fingerprint background check as may be agreed between the tester and the examiner. Any fees for fingerprinting or doing the background check are paid to the respective law enforcement agencies providing the service.

13. The CDL third-party tester shall not charge a fee in excess of \$100 for the administration of a skills test. The third-party test shall clearly indicate in writing that this fee is for the administration of the skills test.

B. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1093 (December 1989), LR 24:2314 (December 1998); LR 39:2511 (September 2013).

Jill P. Boudreaux
Undersecretary

1309#101

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

International Registration Plan (LAC 55:III.325)

In accordance with the provisions of R.S. 47:511, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles hereby amends LAC 55:III, Chapter 3, §325, to adopt by reference the current version of the *International Registration Plan* as adopted by the International Registration Plan, Inc., effective January 1, 2013.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter A. Types of License Plates

§325. International Registration Plan

A. The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the *International Registration Plan*, hereinafter referred to as the plan, adopted in August 1994 and as revised through January 1, 2013, by the member jurisdictions, and published by International Registration Plan, Inc. The department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the January 1, 2013 revision and included in Appendix C of the plan. The commentary and governing board decisions included with the adopted plan shall not be part of this rule, but may be considered by the department in interpreting and implementing the various sections of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:511.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000), amended LR 29:605 (April 2003), LR 30:2859 (December 2004), LR 39:2512 (September 2013).

Jill P. Boudreaux
Undersecretary

1309#103

RULE

**Department of Public Safety and Corrections
Uniform Construction Code Council**

Uniform Construction Code (LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) hereby amends and adopts the following Rule regarding construction codes by replacing the current editions with the more recent editions.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2014 (excepting the National Electric Code which is presently in effect), the following is hereby adopted as the Louisiana State Uniform Construction Code. (The "Louisiana State Plumbing Code" shall replace all references to the "International Plumbing Code" in the following codes.)

1. International Building Code (IBC), 2012 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical and Chapter 29, Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the International Building Code.

a. Delete Chapter 4, Section 403.5.5 Luminous Egress Path Markings.

b. Amend Chapter 9 to adopt and amend 2012 International Building Code, Section 903.2.1.2 Group A-2 (2.). The fire area has an occupant load of 300 or more.

c. Amend chapter 10, Section 1018.5 Air Movement in corridors. Corridors that require protection under Table 1018.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

d. Amend Chapter 10 Section 1026.5

i. Exception: Exterior stairs or ramps which serve no more than one story above the level of exit discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.

e. Amend Chapter 16 Section 1603.1, General. Construction documents shall show the size, section and relative locations of structural members with floor levels, column centers and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.9 shall be indicated on the construction documents.

i. Exception: Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

(a). floor and roof live loads;

(b). ground snow load, *P_g*;

(c). basic wind speed (3-second gust), miles per hour (mph) (km/hr) and wind exposure;

(d). seismic design category and site class., unless excepted by Sections 1603.1.5 or 1613.1;

(e). flood design data, if located in flood hazard areas established in Section 1612.3;

(f). design load-bearing values of soils.

f. Amend Chapter 16 Section 1603.1.5 Earthquake design data. The following information related to seismic

loads shall be shown, regardless of whether seismic loads govern the design of the lateral-force-resisting system of the building:

- i. seismic importance factor, I, and occupancy category;
- ii. mapped spectral response accelerations, SS and S1;
- iii. site class;
- iv. spectral response coefficients, SDS and SD1;
- v. seismic design category;
- vi. basic seismic-force-resisting system(s);
- vii. design base shear;
- viii. seismic response coefficient(s), CS;
- ix. response modification factor(s), R;
- x. analysis procedure used;
- xi. exceptions:

(a). construction documents that are not required to be prepared by a registered design professional;

(b). construction documents for structures that are assigned to Seismic Design Category A.

g. Amend Chapter 16, Section 1609.1.2 Protection of Openings. In wind-borne debris regions, glazing in buildings shall be impact resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resistant standard or ASTM E 1996 and ASTM E 1886 referenced herein as follows.

i. Glazed openings located within 30 feet (9144 mm) of grade shall meet the requirements of the large missile test of ASTM E 1996.

ii. Glazed openings located more than 30 feet (9144 mm) above grade shall meet the provisions of the small missile test of ASTM E 1996.

iii. Exceptions

(a). Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings classified as Risk Category 2. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13 716 mm) or less where V_{asd} determined in accordance with Section 1609.3.1 does not exceed 140 mph (63 m/s). =

(b). Glazing in Risk Category I buildings as defined in Section 1604.5, including greenhouses that are occupied for growing plants on a production or research basis, without public access shall be permitted to be unprotected.

(c). Glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.

h. Chapter 16 Section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7.

i. Exceptions:

(a). detached one- and two-family dwellings, assigned to Seismic Design Category A, B or C, or located where the mapped short-period spectral response acceleration, SS , is less than 0.4 g;

(b). the seismic-force-resisting system of wood-frame buildings that conform to the provisions of Section 2308 are not required to be analyzed as specified in this Section;

(c). agricultural storage structures intended only for incidental human occupancy;

(d). structures that require special consideration of their response characteristics and environment that are not addressed by this code or ASCE 7 and for which other regulations provide seismic criteria, such as vehicular bridges, electrical transmission towers, hydraulic structures, buried utility lines and their appurtenances and nuclear reactors;

(e). structures that are not required to have a registered design professional in responsible charge;

(f). structures that are assigned to Seismic Design Category A.

ii. Amend Chapter 16, Section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

i. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph)(48.4m/s)(3 second gust) for buildings in exposure category B.

2. International Existing Building Code (IEBC), 2012 Edition, not including Chapter 1, Administration, and the standards referenced in that code for regulation of construction within this state.

3.a. International Residential Code, 2012 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

i. Adopt and amend 2012 IRC Section R301.2.1. Part IV-Energy Conservation of the latest edition of the International Residential Code is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, 2012 IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

(a). Delete Figure R301.2(4)B and replace all references to this figure with Figure R301.2(4)A.

ii. Amend 2012 IRC Section R301.2.1.1 (Design Criteria); R301.2.1.1 Wind limitations and wind design required. The wind provisions of this code shall not apply to the design of buildings where the basic wind speed from Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s).

(a). Exceptions

(i). For concrete construction, the wind provisions of this code shall apply in accordance with the limitations of Sections R404 and R611.

(ii). For structural insulated panels, the wind provisions of this code shall apply in accordance with the limitations of Section R613.

(b). In regions where the basic wind speed shown on Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s), the design of buildings for wind loads shall be in accordance with one or more of the following methods:

(i). AF&PA Wood Frame Construction Manual (WFCM);

(ii). ICC Standard for Residential Construction in High-Wind Regions (ICC 600);

(iii). ASCE Minimum Design Loads for Buildings and Other Structures (ASCE 7);

(iv). AISI Standard for Cold-Formed Steel Framing—Prescriptive Method For One- and Two-Family Dwellings (AISI S230);

(v). International Building Code; or

(vi). SSTD 10-99 Hurricane Resistant Construction Standard.

(c). The elements of design not addressed by the methods in Clauses (i) through (vi) shall be in accordance with the provisions of this code. When ASCE 7 or the *International Building Code* is used for the design of the building, the wind speed map and exposure category requirements as specified in ASCE 7 and the *International Building Code* shall be used.

iii. Adopt and amend 2012 IRC Section R301.2.1.2 Protection of Openings. Exterior glazing in buildings located in windborne debris regions shall be protected from windborne debris. Glazed opening protection for windborne debris shall meet the requirements of the Large Missile Test of ASTM E 1996 and ASTM E 1886 referenced therein. The applicable wind zones for establishing missile types in ASTM E 1996 are shown on Figure R301.2(4)F. Garage door glazed opening protection for windborne debris shall meet the requirements of an approved impact-resisting standard or ANSI/DASMA115.

(a). Exceptions

(i). Wood structural panels with a minimum thickness of 7/16 inch (11 mm) and a maximum span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings.

(ii). Panels shall be precut and attached to the framing surrounding the opening containing the product with the glazed opening.

(iii). Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided.

(iv). Attachments shall be designed to resist the component and cladding loads determined in accordance with either Table R301.2(2) or ASCE 7, with the permanent corrosion-resistant attachment hardware provided and anchors permanently installed on the building.

(v). Attachment in accordance with Table R301.2.1.2 is permitted for buildings with a mean roof height of 33 feet (10 058 mm) or less where wind speeds do not exceed 130 miles per hour (58 m/s).

iv. Adopt 2012 IRC Figure R301.2(4)A and delete Figure R301.2(4)B and Figure R301.2(4)C.

v. Adopt 2012 IRC Section R301.2.1.4 Exposure Category.

b. Additionally, Section 302, R302.1 Exterior Walls shall be amended to add the following exception:

i. On lots that are 50 feet or less in width and that contain a one or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

(a). a projection 2 feet from the property line with a 1 hour minimum fire-resistance rating on the underside;

(b). a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

c. Amend Section R302.5.1 Opening Protection

i. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors.

d. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Adopt and amend 2012 IRC Section 313.1 Townhouse automatic sprinkler system. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the council shall not adopt or enforce any part of the International Residential Code or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings. Where no sprinkler system is installed a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with the 2011 NEC. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4

(a). Exception: If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance

with NFPA 13D and Table 302.1 (2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

ii. Adopt and amend 2012 IRC Section 313.2 One-and two-family dwellings automatic fire systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the Council shall not adopt or enforce any part of the International Residential Code or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

(a). Exception: If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with NFPA 13D and Table 302.1(2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

iii. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings: When alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

iv. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows:

(a). Exceptions

(i). A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall.

(ii). Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

(iii). Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows: Exception: Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

v. Adopt 2012 IRC Table 602.3 (1) Fastening Requirements.

vi. Amend 2012 IRC Section R703.8 Flashing. Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at all of the following locations:

(a). exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage;

(b). at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings;

(c). under and at the ends of masonry, wood or metal copings and sills;

(d). continuously above all projecting wood trim;

(e). where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction;

(f). at wall and roof intersections;

(g). at built-in gutters.

vii. Adopt 2012 IRC Section R802.11 Roof tie-down.

viii. Adopt 2012 IRC Table R802.11 Rafters.

ix. Amend Section R806.1 Ventilation required.

(a). Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate space by ventilating openings protected against the entrance of rain or snow. Ventilation openings shall have a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Ventilation openings having a least dimension larger than 1/4 inch (6.4 mm) shall be provided with corrosion-resistant wire cloth screening, hardware cloth, or similar material with openings having a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Openings in roof framing members shall conform to the requirements of Section R802.7. Required ventilation openings shall open directly to the outside air.

x. Substitute Chapter 11, Energy Efficiency of the 2006 IRC, in lieu of Chapter 11 Energy Efficiency of the 2012 IRC.

4.a. International Mechanical Code(IMC), 2012 Edition, and the standards referenced in that code for regulation of construction within this state. Also included for regulation, the Louisiana One- and Two- Family Supplement to the 2006 International Mechanical Code. Furthermore, the International Mechanical Code, 2006 Edition, Chapter 1, Section 101.2 Scope is amended as follows:

i. Exception: Detached one- and two- family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the Louisiana One- and Two- Family Supplement to the 2006 International Mechanical Code. Furthermore, the IMC shall be amended to include the following:

b. Amend Chapter 6 Section 603.4 Metallic ducts. All metallic ducts shall be constructed as specified in the SMACNA HVAC Duct Construction Standards-Metal and Flexible.

i. Exception: Ducts installed within single dwelling units shall have a minimum thickness as specified in the 2006 International Mechanical Code Table 603.4.

ii. Amend Chapter 6, Section 606.4.1 Supervision. The duct smoke detectors shall be connected to a fire alarm system where a fire alarm system is required by Section 907.2 of the International Fire Code or locally adopted fire code. The actuation of a duct smoke detector shall activate a visible and audible supervisory signal at a constantly attended location.

5. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the

state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

6. International Fuel Gas Code (IFCG), 2012 Edition, and the standards referenced in that code for regulation of construction within this state.

7. National Electric Code (NEC), 2011 Edition. This Code is to become effective on January 1, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), amended LR 37:3065 (October 2011), LR 38:1994 (August 2012), LR 39:2512 (September 2013).

H. "Butch" Browning
State Fire Marshal

1309#053

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Programs

Risk Assessment Evaluation
(LAC 67:I.301, 303, 305, 307, and 309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:I, Subpart 1, General Administration, Chapter 3, Risk Assessment Evaluation.

Chapter 3 is being amended in accordance with Act 814 of the 2012 Regular Legislative Session and R.S. 15:1110.2. The amendments include adding an owner, operator, current or prospective employee, or volunteer of juvenile detention facilities licensed by the department as individuals entitled to request risk assessment evaluation. In addition, the Chapter is being amended to add procedures and conditions of employment for current department employees and update risk evaluation panel membership consistent with current job titles and responsibilities.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Subpart I. General Administration

Chapter 3. Risk Assessment Evaluation

§301. Introduction

A. The Department of Children and Family Services (DCFS) maintains a central registry of all justified (valid) reported cases of child abuse and neglect.

B. - B.2. ...

C. Any current employee/volunteer whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and who discloses that their name was recorded subsequent to January 1, 2010 on the state central registry with a justified (valid) finding of abuse or neglect, or through reasonable suspicion, or as the result of information known or received by DCFS will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately. As a condition of continued employment the employee/volunteer shall be directly supervised by another paid employee of the department, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the employee with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the employee/volunteer

shall be terminated immediately. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding within the required timeframe, the employee/volunteer shall continue to have direct supervision at all times by another paid employee of the department who has not disclosed that they have a justified finding on the state central registry until a ruling by the DCFS Appeals Unit that they do not pose a risk to children. Supervision may end effective with such a ruling from the Appeals Unit. If the Appeals Unit upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be terminated immediately.

D. In accordance with R.S. 46:1414.1(D) and 15:1110.2, any owner, operator, current or prospective employee, or volunteer of a child care facility or juvenile detention facility licensed by the department who discloses that he is currently recorded on the state central registry for a justified (valid) finding of abuse or neglect shall be entitled to a risk evaluation provided by the department to determine whether the individual poses a risk to children.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 616, and Act 47, Act 221, and Act 388 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§303. Risk Evaluation Panel

A. A risk evaluation panel (panel) is established to conduct risk assessment evaluations for an individual as listed in LAC 67:I.301.B and C whose name appears on the state central registry to determine if that individual poses a risk to children.

B.1. Members of the panel shall include:

- a. child welfare manager 2 for Field Operations;
- b. child welfare manager 2 for In Home Services;

c. child welfare manager 2 for Out of Home Services;

d. Risk Evaluation Panel coordinator;

e. for panel reviews relating to owners, operators, current or prospective employees, or volunteers of child care facilities and juvenile detention facilities, program manager 2 for Licensing; and

f. any others designated by the DCFS deputy secretaries for the Division of Programs and Division of Field Operations as appropriate designees of those listed above or as deemed necessary to convene an appropriate panel.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§305. Risk Assessment Evaluation Process

A. - C.3. ...

D. The prospective or current employee must submit the information within 10 days of the request for a risk evaluation by mailing to:

Louisiana Department of Children and Family Services
Attention: Risk Evaluation Panel
627 North Fourth St., Third Floor
Baton Rouge, LA 70802

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§307. Risk Determination Criteria

A. ...

B. The panel shall determine if an individual poses a risk to children based on the information available in the DCFS case record, and any supplemental information provided by the prospective or current employee.

1. The following information shall be used by the panel to make its determination including, but not limited to:

a. the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;

b. the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the children, that would demonstrate likelihood of repetition;

c. the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been determined justified against the individual;

d. whether the abuse or neglect involved single or multiple child victims or whether there were more multiple allegations over a period of time to indicate a pattern of behavior;

e. the relationship of the incident of child abuse or neglect to the individual's current or conditional job responsibilities within the department or facility;

f. evidence of rehabilitation such as employment, education, or counseling since the justified incident of abuse or neglect; and

g. letters of recommendation one of which must be from a former employer whenever possible.

C. ...

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§309. Appeals Process

A. - B. ...

C. The individual may file a request for an administrative appeal within 30 days of the mailing of the notice of the determination with the DCFS Appeals Unit. If the request for an administrative appeal is made by a current or prospective owner, employee or volunteer of a child care facility or juvenile detention facility, within 30 days of the

mailing of the notice of the determination, that request shall be sent by the Appeals Unit to the Division of Administrative Law.

D. All decisions rendered by the administrative law judge within the Appeals Unit or the Division of Administrative Law are final and such decisions shall exhaust the individual's administrative appeal rights.

E. Within 30 days after the mailing date listed on the notice of the final decision by the Appeals Unit or the Division of Administrative Law, or if a rehearing is requested, within 30 days after the date of the decision thereon, the individual may obtain judicial review by filing a petition for review of the decision in the Nineteenth Judicial District Court or the district court of the domicile of the individual.

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? If the Risk Evaluation Panel determines the individual poses a risk to children and the individual does not request and win an appeal or fail to request an appeal, the individual will not be allowed to be employed by a juvenile detention facility. The individual will not be allowed to request a Risk Evaluation Panel assessment for two years.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the education and supervision of one's children.

3. What effect will this have on the functioning of the family? The family income may be impacted if the individual is unable to seek employment in a juvenile detention facility if it is determined the individual poses a risk to children, the individual does not request an Risk Evaluation Panel assessment or the individual requests an assessment, an appeal and losses the appeal. The individual will not be allowed to request a Risk Evaluation Panel assessment for two years.

4. What effect will this have on family earnings and family budget? Possible loss of family income.

5. What effect will this have on the behavior and personal responsibility of children? If the Risk Evaluation Panel determines the individual poses a risk to children and the individual does not request and win an appeal or fail to request an appeal, the individual will not be allowed to be employed by a juvenile detention facility. The individual will not be allowed to request a Risk Evaluation Panel assessment for two years.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly a department function.

7. What effect will these rules have on child and dependent care, housing, health care, nutrition, transportation and utilities assistance? No effect.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as defined by R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Public Comments

All interested persons may submit written comments through October 25, 2013, to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on October 25, 2013, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Risk Assessment Evaluation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend Louisiana Administrative Code (LAC) 67, Part I, Subpart 1, Chapter 3, Risk Assessment Evaluation to add an owner, operator, current or prospective employee, or volunteer of juvenile detention facilities licensed by the department as individuals entitled to request risk assessment evaluation. Act 814 of the 2012 Regular Legislative Session requires any owner, operator, current or prospective employee or volunteer to disclose that they are currently recorded on the State Central Registry for a justified finding of abuse or neglect. Any individual on the registry is entitled to a risk assessment evaluation provided by the Department of Children and Family Services (DCFS) to determine that the individual does not pose a risk to children. Also, an individual has the right to an administrative appeal of the risk assessment evaluation determination.

In addition, the Chapter is being amended to add procedures and conditions of employment for current department employees as well as update risk evaluation panel membership consistent with job titles and responsibilities.

The only cost associated with this proposed rule is the cost of publishing rulemaking, which is estimated to be approximately \$1,312 (\$656 State General Fund and \$656 Federal Funds) in FY 13-14. This is a one-time cost that is routinely included in the department's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may result in an indeterminable impact in costs to providers depending on the outcome of the finding on State Centralized Registry. Providers may experience additional hiring and staff costs if any owner, operator,

potential or prospective employee, and volunteer of the juvenile detention facilities discloses that their name was recorded on the State Central Registry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any owner, operator, or current employee may not be able to work in a juvenile detention facility if his name is recorded on the state central registry and they do not request a risk evaluation panel assessment or they request an assessment and the panel finds they pose a risk to children and the appeal is upheld. If the appeal is upheld, the individual must be terminated immediately. Also, the individual will not be able to request another risk evaluation panel assessment for two years.

Brent Villemarette
Deputy Secretary
1309#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.107, 301, 519,
523, 2301, 2303, 2503, 2509, and 2709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 126—Charter Schools*: §107. Types of Charter Schools, §301. Charter School Authorizers, §519. Local School Board Consideration of Charter Application, Awarding of Charters, §523. Charter School Replication, §2301. State Funding, §2303. Federal Funding, §2503. Budgeting, §2509. Assets, §2709. Enrollment of Students, Lottery, and Waitlist. The proposed policy implements Act 330 of the 2013 regular legislative session, related to the transfer of schools from the Recovery School District back to local school boards. Pursuant to Act 330, the policy defines Type 3B charter schools as former Type 5 charter schools that have transferred from the RSD back to the local school board as Type 3B charter schools. Type 3B charter schools have the option to retain independent LEA status.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§107. Types of Charter Schools

A. A Type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A Type 1B charter school is a new school or a preexisting public school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local charter authorizer.

C. A Type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the State Board of Elementary and Secondary Education.

D. A Type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a

charter between a nonprofit corporation and the local school board.

E. A Type 3B charter school is a former Type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

F. A Type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the State Board of Elementary and Secondary Education.

G. A Type 5 charter school is a preexisting public school transferred to the recovery school district as a school determined to be failing pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the State Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 39:

Chapter 3. Charter School Application and Approval Process

§301. Charter School Authorizers

A. The state Board of Elementary and Secondary Education authorizes the operation of type 2, type 4, and type 5 charter schools.

B. Local school boards authorize the operation of type 1, type 3, and type 3B charter schools.

C. Local charter authorizers authorize the operation of type 1B charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 39:473 (March 2013), LR 39:

Chapter 5. Charter School Application and Approval Process

§519. Local School Board Consideration of Charter Application, Awarding of Charters

A. Local school boards shall carefully review each Type 1 and Type 3 charter school application they receive and may approve a charter application only after it has made a specific determination whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911.

B. Local school boards may approve requests to establish a Type 3B charter school pursuant to the process outlined in Bulletin 129, §505.

1. A Type 3B charter school is a former Type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

2. A Type 3B charter school shall retain its Type 5 academic accountability history, including, but not limited to prior school performance scores. The performance of a Type

3B charter school shall be included in the local school district's District Performance Score.

3. Throughout initial and all subsequent renewal charter terms, the Type 3B charter contract shall:

a. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer;

b. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

c. prohibit the charter school from establishing admissions requirements; and

d. require any school that participated as a Type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to Type 5 charter schools participating in the enrollment system and expulsion process; and

ii. continue to provide transportation services for students who reside more than one mile away from the school.

4. In determining the length of the initial term for the Type 3B charter school upon transfer, the local school board shall either:

a. set the length of the initial charter term to match the number of years remaining on the charter school's former Type 5 charter contract; or

b. set the length of the initial charter term to be three or more years, not to exceed the number of years the charter school would be granted under the "Maximum Charter Renewal Terms" contained in Section 1503 of this Bulletin.

5. If granted a renewal, in determining the length of the term for the first renewal of the Type 3B charter contract, the local school board shall set the length of the renewal term to be three or more years, not to exceed the number of years the charter school would be granted under the "Maximum Charter Renewal Terms" contained in Section 1503 of this Bulletin. Differing academic performance standards for the first renewal of the charter contract must be approved by BESE. Subsequent renewal term lengths shall be determined by the local school board.

6. At the time of transfer, the Type 3B charter school shall have the option to remain its own local educational agency or have the local school system serve as the charter school's local education agency. The charter school may subsequently change its LEA status, subject to approval by the local school board and LDE.

a. A Type 3B charter school acting as its own local education agency shall comply with the same financial, programmatic, and reporting requirements applicable to other charter school LEAs.

b. The State Superintendent may rescind the local education agency status of a Type 3B charter school should the charter school fail to meet these requirements, pursuant

to a process outlined in the annual Financial Risk Assessment administered by the Department. Upon rescission, the local school board shall serve as the LEA for the Type 3B charter school as long as the local school board continues to authorize the charter school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 37:2385 (August 2011), amended LR 39:

§523. Charter School Replication

A. - A.4. ...

5. The type of charter schools the charter operator may open shall be determined as follows:

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 1	<ul style="list-style-type: none"> Type 1; May be a Type 3 subject to the permission of the school board
Type 1B	<ul style="list-style-type: none"> Type 1B
Type 2	<ul style="list-style-type: none"> New Type 2; May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school
Type 3	<ul style="list-style-type: none"> Type 1; May be a Type 3 subject to the permission of the school board
Type 3B	<ul style="list-style-type: none"> Type 3B, subject to the charter operator's ability to provide a facility or enter into an agreement with the local school board for use of a school board facility
Type 4	<ul style="list-style-type: none"> Type 4
Type 5	<ul style="list-style-type: none"> Type 2; May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:

Chapter 23. Charter School Funding

§2301. State Funding

A. The per pupil amount provided to a Type 1, 2, 3, 3B or 4 charter school shall be computed at least annually and shall be equal to no less than the per pupil amount received by the school district in which the charter school is located from the following, except as provided in Paragraph E of this section.

B. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

C. For the purposes of funding, each Type 1, Type 3, and Type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement and shall receive a per pupil amount each year from the local school board based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

D. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

E. A school district with one or more Type 3B charter schools shall distribute Minimum Foundation Program formula funds to each Type 1, 3, 3B, and 4 charter school using the weighted allocations provided for in the most recently adopted Minimum Foundation Program formula.

1. A parish that contains a municipality with a population of three hundred thousand or more persons according to the latest federal decennial census shall use the allocation method provided for in this Paragraph no earlier than the 2018-2019 fiscal year for all Type 1 and Type 3 charter schools authorized by the school board and in operation prior to the 2013-2014 school year.

2. For all other Type 1, 3, and 4 charter schools in such a parish, the school board may request the use of a differentiated distribution methodology to be approved by the LDE.

F. Type 2 charter schools approved prior to July 1, 2008 shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to Type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year. Type 2 charter schools authorized by the State Board of Elementary and Secondary Education after July 1, 2008, shall receive a per pupil amount each year as provided in the Minimum Foundation Program approved formula.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any Type 2 charter school that has had an increase or decrease in student enrollment of 5 percent or less in any school year for which the February membership count occurs.

G. A charter authority may annually charge each charter school it authorizes a fee in an amount equal to two percent of the per pupil allocation that is received by a charter school for administrative overhead costs incurred by the chartering authority for considering the charter application and any amendment thereto, providing monitoring and oversight of the school, collecting and analyzing data of the school, and for reporting on school performance. Such fee amount shall

be withheld from the per pupil amount in monthly increments and shall not be applicable to any federal money or grants received by the school. Administrative overhead costs shall not include any cost incurred by the charter authority to provide purchased services to the charter school.

1. At least 30 days prior to the beginning of each fiscal year, each charter school shall be provided by its chartering authority with a projected budget detailing anticipated administrative overhead costs and planned uses for fees charged for such costs.

2. By no later than 90 days following the end of each fiscal year, each charter school shall be provided by its chartering authority or the Recovery School District, if applicable, an itemized accounting of the actual cost of each purchased service provided to the charter school.

3. The state Department of Education may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to one quarter of one percent of the fee amount charged to a Type 3B charter school for administrative costs incurred by the department for providing financial oversight and monitoring of a Type 3B charter school acting as its own LEA.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:

§2303. Federal Funding

A. Any Type 1B, 2, or Type 5 charter school shall be considered the local education agency for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. A Type 3B charter school shall have the option to remain its own local education agency or have the local school board serve as the charter school's local education agency, pursuant to §519 of this Bulletin.

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds or special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:

Chapter 25. Charter School Fiscal Responsibilities

§2503. Budgeting

A. - B. ...

C. Type 4 charter operators shall annually submit a budget to the Superintendent of Education in accordance with the provisions of R.S. 17:88. Each Type 2 charter school, Type 5 charter school, and each Type 3B charter school acting as its own LEA shall annually submit its budget directly to the superintendent of education in accordance with deadlines established by the department.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:

§2509. Assets

A. Any assets acquired by a Type 2, Type 3B, or Type 5 charter operator are the property of the charter school for the duration of the charter school's charter. Any assets acquired by a Type 4 charter school are the property of the local school board.

B. For a Type 5 charter school transferring to the local school board as a Type 3B charter school, all property of the Type 5 charter school shall remain property of the charter operator upon transfer to the local school board. Property belonging to the RSD used by the Type 5 charter operator may be transferred to the ownership of the charter operator or the local school board, in accordance with state and federal law, BESE policy, auditing rules, and grant guidelines.

C. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

D. If a charter operator's charter is revoked or the school otherwise ceases to operate, all assets purchased with any public funds shall become the property of BESE, or the local school board, in the case of Type 3B charter schools. All assets purchased with private funds shall remain the property of the charter operator, if the inventory or records of the charter operator demonstrate that the assets were purchased with private funds.

E. If a charter operator fails to open a charter school and serve pupils or if the school closes for any reason, the charter school shall refund all cash on hand which can be attributed to state or local funding to the state or to BESE, or the local school board, in the case of Type 3B charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 39:

Chapter 27. Charter School Recruitment and Enrollment

§2709. Enrollment of Students, Lottery, and Waitlist

A. - I. ...

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and Type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.

J.1. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395

(June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), amended LR 39:1437 (June 2013), LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 126—Charter Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy may impact costs for state or local governmental units. The proposed policy implements Act 330 of the 2013 Regular Legislative Session, related to the transfer of schools from the Recovery School District back to local school boards. It should be noted that the policy authorizes the Louisiana Department of Education to retain a financial oversight fee for Type 3B charter schools choosing to remain their own local education agency. This oversight fee will not exceed 0.25% of the annual per pupil amount allocated to the charter school. This 0.25% will be included in the current maximum 2% fee retained by the local school board from the Type 3B charter school to cover overhead costs incurred by the chartering authority. Because the already-existing 2% maximum fee is inclusive of the 0.25%, this policy should not result in additional costs to the charter school.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy may affect revenue collections. The transfer of a school back to its former LEA is optional. However, if a school transfers from the Recovery School District back to its former LEA, the Recovery School District will no longer receive revenue associated with the operation of the school. Instead, the Type 3B charter school, or the local school board will receive this revenue. Further, if a Type 3B charter school chooses to remain its own local education agency, the policy authorizes the Louisiana Department of Education to retain a 0.25% financial oversight fee. This 0.25% is included in the maximum 2% fee retained by the local school board from the Type 3B charter school to cover overhead costs incurred by the chartering authority. This means that for a Type 3B charter school choosing to remain its own LEA, if both the LDE and the local school board charge the maximum oversight fees, the LDE would receive 0.25% of the annual per pupil amount allocated to the charter school, and the school board would receive 1.75% of the annual per pupil amount allocated to the charter school.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.502 and 505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 129—The Recovery School District*: §502. Parent Petitions, and §505. Return of Schools to LEA. The proposed policy implements Act 275 and Act 330 of the 2013 regular legislative session, related to the transfer of schools from the Recovery School District back to local school boards. Pursuant to Act 275, the policy provides for a parent petition process whereby certain RSD direct-operated schools may be transferred back to the local school board under certain conditions. Pursuant to Act 330, the policy provides for a process whereby eligible Type 5 charter schools may transfer back to the local school board as Type 3B charter schools, and have the option to retain independent LEA status.

Title 28 EDUCATION

Part CXLV. Bulletin 129—The Recovery School District Chapter 5. Failed Schools

§502. Parent Petitions

A. Pursuant to R.S. 17:10.5, a public school that has received a letter grade of “D” or “F,” or any variation thereof, for three consecutive years shall be removed from the jurisdiction of the city, parish, or local public school board, or other public entity and transferred to the jurisdiction of the Recovery School District (RSD) if parents or legal guardians representing at least a majority of the students attending the school sign a petition requesting that the school be transferred to the RSD, and such transfer is approved by the State Board of Elementary and Secondary Education, in accordance with the requirements and procedures below. The effective date of transfer to the RSD shall be July 1 following the approval of such transfer.

B. Pursuant to R.S. 17:10.5, a public school directly operated by the RSD that has received a letter grade of “D” or “F,” or any variation thereof, for five consecutive years, and has not been identified for conversion to a charter school pursuant to a charter contract between BESE and a nonprofit charter organization, shall be transferred from the jurisdiction of the RSD to the jurisdiction of the local school board it was transferred from if parents or legal guardians representing at least a majority of the students who have been enrolled in the school for at least two years sign a petition requesting that the school be transferred to the local school board, and such transfer is approved by the State Board of Elementary and Secondary Education and respective local school board, in accordance with the requirements and procedures below. The effective date of transfer shall be July 1 following the approval of such transfer.

C. Eligibility and Notification

1. The department shall make available on the LDE website information related to parent petitions, including, but not limited to, a list of schools eligible for the parent petition process, parent petition samples or forms,

procedures and deadlines for completing and submitting parent petitions, and notification of receipt of parent petitions by the department.

2. On an annual basis, after completion of each year’s state accountability assessment cycle, the department shall release a list of schools for which the department will accept parent petitions for that year’s parent petition cycle.

a. Transfer to the RSD. A school eligible for transfer to the RSD pursuant to the parent petition process is any public school that is currently not under the jurisdiction of the RSD, nor under a Memorandum of Understanding with the RSD, and has received a letter grade of “D” or “F,” or any variation thereof, for three or more consecutive years.

b. Transfer to the Local School Board. A school eligible for transfer to the local school board is any public school directly operated by the RSD that has not been identified for conversion to a charter school pursuant to a charter contract between the State Board of Elementary and Secondary Education and a nonprofit charter organization, and has received a letter grade of “D” or “F,” or any variation thereof, for five consecutive years.

c. For the purposes of this Section:

i. a 2009 or 2010 baseline school performance score (SPS) of 60.0 to 79.9 will equate to a “D” letter grade;

ii. a 2009 or 2010 baseline school performance score (SPS) below 60.0 will equate to an “F” letter grade.

3. With the release of the list of eligible schools, the department shall release a standard parent petition and may provide an estimate of the minimum number of parent or legal guardian signatures required for each eligible school. The estimated minimum number of required parent or legal guardian signatures shall be based on the official student enrollment count from October 1 of the previous school year. In cases where there has been a significant change in the number of students attending the school since that time, for example, due to a change in grade configuration at the school, the estimate shall reflect these changes. The final minimum number of required parent or legal guardian signatures will be based on the official student enrollment count from October 1 of the current school year.

a. For schools transferring to RSD, the minimum number of required parent or legal guardian signatures will be 50 percent plus one signature of the total number of students attending the school.

b. For schools transferring to the local school board, the minimum required parent or legal guardian signatures will be 50 percent plus one signature of the number of students who have been enrolled in the school for at least two consecutive years.

D. Completing Parent Petitions

1. The standard parent petition released by the department shall be used to complete parent petitions for eligible schools. No other form or type of parent petition will be accepted by the department. Signatures may not be collected prior to the date of the annual release of the list of eligible schools by the department.

2. Parent petitions may only be signed by a parent or legal guardian of a student currently attending the eligible school.

3. Each student may be signed for by his parents or legal guardians only once on any given petition, such that each student equals one signature.

4. The standard parent petition may request the following information to be completed by parents or legal guardians of students: printed name of student; relationship of signatory to student; grade level of student; year(s) the student has attended the school; printed name of signatory; signature of parent or legal guardian; date of signature; parent or legal guardian contact information; a consent statement for purposes of sharing the petition as a public record; and the identification of "lead petitioners" to assist and facilitate communication between the parents and legal guardians who have signed the petition and the department; and any other information deemed necessary by the department.

5. The standard petition shall also clearly state all rules and procedures for completing and submitting a parent petition.

E. Prohibited Practices

1. Parents or legal guardians shall be free from harassment, threats, and intimidation related to circulation of or signing a petition. No person shall knowingly, willfully, or intentionally:

a. intimidate, deceive, or misinform, directly or indirectly, any parent or legal guardian in matters concerning the circulation of or signing a petition;

b. intimidate a person by the use of violence, force, or threats with the intent to influence that person's decision to sign or not sign the parent petition, or to impede such person's ingress or egress from accessing the parent petition; or

c. without lawful authority, obstruct, hinder, or delay any parent or legal guardian on his way to or while returning home from any gathering or information session related to the circulation of or signing a parent petition, or while returning home from such place.

2. No person shall give or offer to give, directly or indirectly, any money, or anything of apparent present or prospective value to any parent or legal guardian with the intent to influence the parent or legal guardian in relation to the circulation or signing of a parent petition.

3. No person shall:

a. sign the parent petition, knowing that he is not qualified, or influence or attempt to influence another to sign the parent petition, knowing such person to be unqualified to sign or the signature to be fraudulent;

b. forge the signature of another or sign the parent petition using an assumed or fictitious name; or

c. forge, alter, add to, deface, take, destroy, or remove from any parent or legal guardian a parent petition that such parent or legal guardian is attempting to circulate or sign.

4. Any signature determined by the department to have been made as a result of prohibited practices may be deemed invalid.

5. Any person harassing, threatening, or intimidating parents or legal guardians related to the circulation of signing a parent petition may be subject to criminal prosecution under the laws of this state, including, but not limited to R.S. 14:122.1, 14:285, or 14:329.1.

6. Employees of any public school or school district, or members or employees of any city, parish, or local public school board, or other public entity governing a public school shall not utilize school or district resources to support

or oppose any effort by petitioning parents or legal guardians to gather signatures and submit a petition.

F. Submission of Petitions

1. Petitions must be submitted to the department, in accordance with the processes and procedures specified by the department, no later than ninety calendar days following the release of the list of eligible schools and the standard petition by the department.

2. Petitioners may not submit a petition until they reach or exceed the final required minimum number of signatures specified by the department.

G. Review of Petitions

1. Upon timely receipt of a submitted parent petition, the department will review the petition to ensure that the petition has the minimum number of required signatures.

a. Only one signature per student will be counted.

b. Only original signatures will be counted. Photocopied signatures will not be counted.

2. If the department finds that the number of valid signatures is fewer than the final minimum number of required signatures, parents or legal guardians shall have thirty calendar days, commencing with a date specified by the department, to resolve such discrepancies and collect the additional signatures.

3. Once the department has determined the parent petition has the minimum number of signatures required, the department shall post a notification on its website. The notification shall include information identifying the school that is the subject of the completed parent petition, procedures for requesting a copy of the parent petition through a public records request, and procedures and deadlines for challenging the validity of a signature on the parent petition. On the same day the notification is published online, the department shall also send this information, via certified mail, to the lead petitioners, the RSD Superintendent, the local superintendent and the president of the city, parish, or local public school board, or other public entity governing the school which is the subject of the parent petition.

4. The department shall create a signature review and verification process that meets the following requirements:

a. The signatures on the parent petition will be assumed valid unless challenged or there is reasonable doubt of their validity.

b. The department's website will clearly explain the procedures for challenging the validity of a signature on the parent petition.

c. The department shall accept challenges to the validity of signatures on a parent petition at a minimum, for 15 business days after publishing the online notification of the completed parent petition. The department shall respond to all public records requests for copies of the parent petition within three business days of receipt of the request.

d. The department shall determine acceptable challenges to the validity of a signature as follows:

i. Acceptable challenges to the validity of a signature shall include, but not be limited to: the student identified in the parent petition was not enrolled in the school on the date of the parent or legal guardian's signature; the person signing the petition is not the identified student's parent or legal guardian; the signature is a forgery; the signature was made as a result of harassment, threat, or

intimidation; or the signature was made in exchange for a gift of, or offer to give, directly or indirectly, any money, or anything of apparent present or prospective value. In addition, for a parent petition requesting transfer of the school to the local school board, an acceptable challenge is the claim that a student identified on the petition has not been enrolled in the school for a minimum of two consecutive years.

ii. Unacceptable challenges to the validity of a signature shall include, but not be limited to: incorrect dates on the parent petition; the name of student, parent, or legal guardian is misspelled, or does not match student, parent, or legal guardian records on file at the school; or a parent or legal guardian wishes to revoke their valid signature.

e. Notwithstanding the above, signatures shall not be discounted over technicalities if the clear intent of the parent or legal guardian was to support the petition.

f. If validity is challenged or doubted for a number of signatures that, if invalidated, would bring the number of signatures on the parent petition below the majority required, the department shall review and verify the signatures within 45 calendar days.

g. The school and the city, parish, or other local public school board, or other public entity that is the subject of the parent petition shall provide assistance requested by the department for the purpose of verifying signatures.

5. The department shall maintain records regarding the contents and outcomes of the petition.

H. Outcome of Petitions

1. Transfers to the RSD

a. After the department has verified signatures, as necessary, and has determined that the number of valid signatures on the parent petition meets the minimum number of required signatures, authority is hereby delegated to the state superintendent to approve the transfer of the school to the jurisdiction of the RSD no later than March 31st preceding the effective date of the transfer. Approval of such transfer shall be reported to the State Board of Elementary and Secondary Education (BESE) at the next scheduled BESE meeting.

b. The state superintendent shall approve transfers to the Recovery School District under this section for all parent petitions that have been completed successfully and appropriately, in accordance with the policies and procedures in this section, subject to the capacity of the RSD and availability of funds and resources necessary to complete the transfer and manage or oversee the operation of the school, as determined by the state superintendent.

c. BESE reserves the right to limit the number of schools that may be approved by the state superintendent each year for transfer to the RSD under this section.

2. Transfers to the local school board

a. After the department has verified signatures, as necessary, and has determined that the number of valid signatures on the parent petition meets the minimum number of required signatures, and given written notice of this determination to the local school board, the local school board shall consider the approval of the transfer of the school back to the local school board.

b. Upon the local school board's approval of the transfer, the local school board shall present the parent

petition to BESE for approval no later than March 31st preceding the effective date of the transfer. BESE shall consider the parent petition at the next scheduled BESE meeting.

3. The department shall provide notice of the approval of the transfer to the RSD or local school board by posting on the department's website, sending written notice via certified mail to the RSD Superintendent, the city, parish, or local school board, or other public entity from which the school shall be transferred, and contacting the lead petitioners identified on the parent petition. The date of such notification on the department's website shall serve as the date the transfer to the RSD or local school board is officially approved.

4. For each parent petition received by the department, the state superintendent shall submit a written report to BESE which shall include, at a minimum, the following: dates the petition was received by the department; number of total signatures on the parent petition; number of valid signatures on the parent petition; summary of the department's signature verification process, specific actions taken by the department in response to challenges made to signatures on the petition, as applicable, and whether the state superintendent approved the transfer of the school to the jurisdiction of the RSD or the local school board approved the transfer of the school to the jurisdiction of the local school board.

5. The president of BESE may appoint a subcommittee of BESE members to serve in an advisory capacity and review the parent petition and report to ensure that the petition was completed successfully and that the procedures outlined in this section have been properly followed. The membership of the subcommittee shall include the BESE member representing the district in which the school that is the subject of the parent petition is located.

I. Transfer to the Recovery School District

1. A school transferred to the jurisdiction of the RSD pursuant to this section may be directly operated by the RSD or operated as a Type 5 charter school by an approved charter operator.

2. Upon transfer of a school to the RSD under this section, the RSD shall engage in community outreach with parents, legal guardians, and members of the community in which the school is located to consult regarding school model and other operational decisions.

J. Transfer to the Local School Board

1. A school transferred to the jurisdiction of the local school board pursuant to this section may be directly operated by the local school board or by a district authorized charter operator.

2. Upon transfer of a school to the local school board under this section, the local school board shall engage in community outreach with parents, legal guardians, and members of the community in which the school is located to consult regarding school model and other operational decisions.

K. Student Enrollment

1. The city, parish, local public school board, or other public entity from which a school is transferred to the RSD under this section shall create enrollment policies allowing students who choose not to remain enrolled at the school as a

result of the school's transfer to the RSD to transfer to another school operated by the city, parish, local public school board, or other public entity.

2. The local school board shall permit any student attending a school that has been approved to be transferred back to the local school board to remain enrolled at that school upon transfer.

3. A school transferred to the RSD or back to the local school board pursuant to this section shall maintain open enrollment policies and shall not impose student admission requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17.10.5

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3121 (December 2012), amended, LR 39:

§505. Return of Schools to LEA

A. - C. ...

D. A non-failing school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years as either a direct-run RSD school or a type 5 charter school. A school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE, regardless of changing operators or site codes for the school since that time. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school has earned for the past two consecutive years a school performance score (SPS) of 54.0 or above. If the academically unacceptable school (AUS) bar is raised above 50.0, then the school must have earned for the past two consecutive years a school performance score that is at least 4.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system.

a. Beginning with the return eligibility process beginning in the 2013-14 school year, in order to be eligible to choose to transfer from the jurisdiction of the RSD, schools comprised entirely of grades below ninth grade shall have two consecutive school performance scores based on test data from students actually attending that school, rather than test data from a paired school. For schools comprised entirely of grades above eighth grade, both consecutive school performance scores shall include ACT data for students actually attending the school, and at least one of the school performance scores shall include graduation index and graduation rate data for students actually attending the school.

3. The school elects to transfer from the RSD and has notified BESE in writing, no later than December 1 of the year preceding the effective date of the proposed transfer.

a. Type 5 Charter School. The charter school's governing authority, shall take official board action based on a vote of its membership, in accordance with its by-laws, to notify BESE in writing of its desire to transfer from the jurisdiction of the RSD to its former LEA or an AGA as a Type 3B charter school. Such notice shall state whether the

charter school desires to remain an independent LEA or have the former school board serve as the charter school's LEA.

b. Direct-Run RSD School. The superintendent of the RSD, in consultation with the parents of students attending the school, and the school's staff, shall make a recommendation to BESE seeking transfer from the jurisdiction of the RSD.

4. No later than January 1 of the school year preceding the effective date of the proposed transfer, BESE shall make a determination whether or not to allow an eligible non-failing school to seek transfer to its former LEA or an AGA. At that time, BESE may require the school to agree to comply with certain requirements prior to the effective date of the proposed transfer.

5. If BESE approves the transfer, the former LEA or the AGA must notify BESE, in writing, whether it has agreed to accept jurisdiction of the transferring school no later than March 1 of the school year prior to the effective date of the proposed transfer.

6. The following parties must agree to the transfer no later than April 1 of the school year preceding the effective date of such transfer:

- a. the governing authority of a charter school, if a charter school; or
- b. the superintendent of the RSD, if a direct-run RSD school; and
- c. BESE; and
- d. the recipient LEA or AGA.

E. A direct-run RSD school that has received a letter grade of "D" or "F" for five consecutive years may be transferred back to the local school board pursuant to the parent petition process specified in §502 of this bulletin.

F. A direct-run RSD school that is deemed a failing school and has not been approved for transfer back to the local school board pursuant to the parent petition process specified in §502 of this bulletin may be eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years at the conclusion of the school year preceding the effective date of the proposed transfer. A school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE, regardless of changing operators or site codes for the school since that time. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school is labeled as in AUS status as defined by the statewide school and district accountability system during its fifth year, or any subsequent year the school remains within the RSD.

3. The school is not undergoing a charter conversion or phase-out, as defined in Subsection J below.

4. The recipient LEA or AGA has agreed to accept the school and has developed a proposal for the school's turnaround.

5. BESE has approved the recipient authority's turnaround proposal for the school.

6. The following parties have agreed to such transfer from the RSD:

- a. the superintendent of the RSD; and
- b. BESE; and
- c. the recipient LEA or AGA

G. Type 5 Charter Schools. The transfer of a type 5 charter school from the RSD shall become effective on July 1 of the year following BESE's approval of such transfer.

1. The local school board shall permit a Type 3B charter school to remain in the facility in which it was located at the time of transfer or shall provide the Type 3B charter school with another facility for use.

2. The charter school shall negotiate a new charter contract agreement with the recipient authority to become a Type 3B charter school. A copy of the signed negotiated charter contract agreement must be provided to BESE no later than April 1 preceding the effective date of the proposed transfer. The new charter contract, to be effective on the date of transfer (July 1), and any subsequent renewal charter contracts must:

- a. be consistent with all state and federal laws governing charter school authorization;
- b. contain academic performance standards for the initial and first renewal term lengths that are equal to or greater than type 5 charter school performance standards as enumerated in BESE Bulletin 126, Section 519;
- c. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer (prior to January 1);
- d. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;
- e. prohibit the charter school from establishing admissions requirements; and
- f. require any school that participated as a Type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

- i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to Type 5 charter schools participating in the enrollment system and expulsion process; and

- ii. continue to provide transportation services for students who reside more than one mile from the school.

H. Direct-Run RSD Schools. A direct-run RSD school may transfer directly to the recipient authority as a direct-run school, or may transfer as a Type 3 or Type 4 charter school.

1. Transfer to a Charter School. A non-failing direct-run RSD school may transfer to the recipient authority as either a Type 3 or a Type 4 charter school. Such transfer to the recipient authority shall be made in the same manner and with the same requirements as described in Paragraph G.2 above.

2. Transfer as a Direct-Run School. A direct-run RSD school may transfer as a direct-run school under the recipient authority, in which case the recipient authority shall enter

into a memorandum of understanding (MOU) with BESE. The MOU shall, at a minimum:

- a. require that the school comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer (prior to January 1);

- b. permit the school to remain in its facility or designate an alternative facility for use by the school;

- c. prohibit the school from establishing admissions requirements;

- d. require the school to continue to participate in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families. At a minimum, the contract shall require the charter school to:

- i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The school shall follow all policies and procedures applicable to Type 5 charter schools participating in the enrollment system and expulsion process; and

- ii. continue to provide transportation services for students who reside more than one mile from the school, in accordance with state law.

- e. include a turnaround plan identifying key benchmarks and milestones demonstrating the strategy being executed to successfully improve student outcomes at the school, if the school is labeled Academically Unacceptable; and

- f. provide for recourse, authorizing the transfer of the school back to the RSD, should the local school board violate the MOU.

I. The RSD has the responsibility to maintain high educational standards for all direct-run schools and charter schools under its jurisdiction.

J. Type 5 Charter School Accountability. The renewal of a charter agreement for any type 5 charter school that is labeled AUS in its fifth year of operation shall be governed by provisions found in Bulletin 126. If not renewed, the charter school will either revert to the direct control of the RSD, be closed, or may be transferred to another non-profit charter organization.

K. Direct-Run RSD Schools. Any direct-run RSD school that is labeled AUS in its fifth year of operation within the RSD shall be subject to one of the following.

1. Phase-Out. The school will be closed according to a timeline and its students will be transferred to other high performing schools.

2. Charter Conversion. The school may be converted to the control of a charter school that has a proven ability to implement a school turnaround model and will operate as a type 5 charter school.

3. Transfer to a Recipient LEA or AGA. The school may be transferred to a recipient LEA or AGA, which has the proven ability to implement a school turnaround plan.

4. Remain within the RSD. The school may remain within the RSD for an additional five-year period. The school performance will be reviewed on an annual basis and, if the school remains in AUS, a charter operator or recipient authority may submit a proposal to BESE for operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? Yes.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the

objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 129 The Recovery School District

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy does not impact costs for state or local governmental units. The proposed policy amends processes that have already been in place (parent petition process, and transfer of schools to LEA). The processes in the policy will be implemented by Louisiana Department of Education staff, and any costs associated with altering these processes are negligible, and are indeterminable. The proposed policy implements Act 275 and Act 330 of the 2013 Regular Legislative Session, related to the transfer of schools from the Recovery School District back to local school boards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no determinable effect on revenue collections. The transfer of a school back to its former LEA is optional. However, if a school transfers from the Recovery School District back to its former LEA, the Recovery School District will no longer receive revenue associated with the operation of the school. Instead, the Type 3B charter school, or the local school board will receive this revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 135—Health and Safety
(LAC 28:CLVII.301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 135—Health and Safety* §301. Health Screening. The proposed policy implements Act 329 passed during the 2013 Regular Legislative Session.

**Title 28
EDUCATION**

**Part CLVII. Bulletin 135—Health and Safety
Chapter 3. Health**

§301. Health Screening

A. - B. ...

C. The LEA shall keep a record of such examination, shall be required to follow up on the deficiencies within 60 days, and shall notify in writing the parent or tutor of every student found to have any defect of sight or hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not

expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 135—Health and Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy does not impact costs for state or local governmental units.

The proposed policy revision is required by Act 329 of the 2013 Regular Session of the Louisiana Legislature which relates to reporting, instructional, and other requirements for school employees, school governing authorities, and schools.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators (LAC 28:CXV.339, 519, 705,
1113, 1303, 2305, 2313, 2347, and 3319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators* §339. Emergency Planning and Procedures, §519. Teacher Bill of Rights, §705. Student Academic Records and Reports, §1113. Orientation for Parents of First Time Students, §1303. Bullying, §2305. Ancillary Areas of Instruction, §2313. Elementary Program of Studies, §2347. Health Education, and §3319. Eligibility to Participate in High School

Interscholastic Athletics. The proposed policy implements laws passed during the 2013 regular legislative session.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§339. Emergency Planning and Procedures

A. Each public school principal or school leader shall have written policies and procedures developed jointly with local law enforcement, fire, public safety, and emergency preparedness officials, that address the immediate response to emergency situations that may develop in the schools and comply with the requirements in R.S. 17:416.16. The principal or school leader shall:

1. submit the crisis management and response plan to the local superintendent for approval;
2. annually review and possibly revise the crisis management and response plan; and
3. within 30 days of each school year, conduct a safety drill to rehearse the plan.

B. The school shall maintain and use contingency plans for immediate responses to emergency situations.

C. The school shall establish and use procedures for reporting accidents to parents and/or the central office.

D. In the absence of a principal or school leader, another individual(s) at the school shall be delegated the necessary authority to use emergency procedures.

E. Procedures for the cancellation of school shall be established; communicated to students, teachers, and parents; and followed when necessary.

F. The school shall establish procedures for special calls to police, fire departments, and hospitals, and practice drills shall be used to ensure the effectiveness of the procedure.

G. The school shall establish procedures for the evacuation of the building in the event of fire, severe weather conditions, or bomb threats. Practice drills shall be used to ensure the effectiveness of the procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:

Chapter 5. Personnel

§519. Teacher Bill of Rights

A. - A.7. ...

8. a teacher has the right to complete only paperwork that is not excessively burdensome that, if required by law or regulation, adheres to the law or regulation and does not result in overly cumbersome interpretations of that law or regulation;

9. ...

10. a teacher has the right to be afforded time during the school day or week to collaborate with other teachers.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.18.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 35:1100 (June 2009), LR 39:

Chapter 7. Records and Reports

§705. Student Academic Records and Reports

A. - E. ...

AUTHORITY NOTE: Promulgated in accordance with USCS 1232g; R.S. 17:112; R.S. 17:177; R.S. 17:391.7(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005), amended LR 39:

Chapter 11. Student Services

§1113. Orientation for Parents of First Time Students

A. ...

B. Each local educational governing authority shall conduct a parent orientation course according to the following guidelines.

1. The program shall be scheduled to accommodate the attendance of the parents or guardians without the loss of work.

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:235.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005), amended LR 39:

Chapter 13. Discipline

§1303. Bullying

A. - A.2.c. ...

B. Training for School Personnel. Each LEA shall create a program to provide a minimum of four hours of training each year for new school employees who have contact with students, including bus drivers, with respect to bullying. The training shall be two hours each following year for all school employees who have contact with students and have received the four hour training. The training shall specifically include the following:

B.1. - F.1. ...

2. Parental Notification of Allegation of Bullying

a. - b. ...

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation. If, after three attempts in a forty-eight-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

F.2.d. - F.8.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 39:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - H.2.g. ...

I. Each LEA shall provide to high school students age and grade appropriate classroom instruction relative to the state's safe haven relinquishments law, Children's Code Articles 1149 through 1160.

J. Each LEA shall provide appropriate instruction on adoption awareness to all high school students in a manner deemed appropriate by the school principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154; R.S. 17:261 et seq.; R.S. 17:280; R.S. 17:281 et seq.; R.S.17:404; R.S. 17:405 et seq; 36 USCS §106; R.S. 17:263; and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:

§2313. Elementary Program of Studies

A. - D.3.b. ...

E. Each public elementary school that includes any of the grades kindergarten through eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(26); R.S. 17:17.1; R.S. 17: 24.8; R.S. 17:81; R.S. 17:154-154.1; R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1135 (April 2011), LR 39:

§2347. Health Education

A. - B. ...

C. JROTC I and II may be used to meet the Health Education requirement provided the following requirements are met.

1. A minimum of 2000 minutes of instructional time shall be devoted Health Education in JROTC I and in JROTC II. Students must take both JROTC I and JROTC II to meet the Health Education requirement.

2. All of the standards and GLEs for Health shall be covered in JROTC I and JROTC II.

3. JROTC I and JROTC II shall include instruction in CPR, adoption awareness, the safe haven relinquishments law, and content relative to dating violence as required by state law.

D. Health Education shall include instruction relative to dating violence. Such instruction shall include but need not be limited to providing students with the following information:

- 1. the definition of “dating violence;”
- 2. dating violence warning signs; and
- 3. characteristics of healthy relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:1135 (April 2011), LR 39:

Chapter 33. Home Study Programs

§3319. Eligibility to Participate in High School

Interscholastic Athletics

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176(G) and 17:236.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1135 (April 2011), repealed LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption,

repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions do not impact costs for state or local governmental units.

The proposed policy revisions are required by Act 329 of the 2013 Regular Session of the Louisiana Legislature which relates to reporting, instructional, and other requirements for school employees, school governing authorities, and schools. Act 294 of the 2013 Regular Session of the Louisiana Legislature repealed R.S. 17:236.3, which relates to the eligibility of home study students participating in high school interscholastic athletics as these provisions were declared unconstitutional by the Louisiana Supreme Court in January 2013. In response this section of Bulletin 741 should be repealed.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will have no determinable effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Career and Technical Education
(LAC 28:CV.2375 and 2389)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—The Louisiana Handbook for School Administrators*. The proposed policy changes update current policies and correct technical errors.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

Subchapter C. Career and Technical Education

§2375. Business Education

A. The Business Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business Law	10-12	1
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	9-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1
Web Design II	10-12	1
Word Processing	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007), LR 34:2557 (December 2008), LR 39:2222 (August 2013), LR 39:

**§2389. Credit for Career and Technical Education
Courses**

A. Requests for partial credit for two- or three-hour blocks of career and technical education courses because of unusual or extenuating circumstances shall be made by the school to the LEA. Documentation shall be kept in the student's cumulative folder.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005), amended LR 39:2225 (August 2013), LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed policy changes will not result in any costs or savings to state or local governmental units.
The proposed policy changes update current policy and correct technical errors.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Standards and Curricula (LAC 28: CXV.2314 and 2324)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators* §2314. Carnegie Credit and Credit Flexibility, and §2324. Credit Recovery. The proposed revisions provide clarity to these policies.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2314. Carnegie Credit and Credit Flexibility

A. LEAs may permit students to earn Carnegie credit as middle school and high school students in two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or

2. by demonstrating proficiency as set forth below.

B. When awarding credit based on instructional time, LEAs shall require a minimum of 7,965 minutes for one Carnegie credit. In order to grant one-half Carnegie credit, LEAs shall require a minimum of 3,983 minutes.

C. When awarding Carnegie credit based on demonstrated proficiency, LEAs must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized, or
2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or
3. a listing of requirements to demonstrate proficiency through portfolio submissions.

D. Students enrolled in a course for the first time, which is not a credit recovery course or part of an accelerated program, shall only earn credit according to the pathway A.1 of this section once the school year has begun.

1. If a student fails a course, but meets the standard of proficiency on the End of Course exam, the student may retain that score to be factored into their final grade in either a credit recovery course or a repeat of the traditional course.

E. Proficiency in a course with a state administered End of Course exam must be demonstrated using the End of Course exam.

F. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

G. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, P (Pass) and the unit of credit earned entered on their transcript.

1. LEAs shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2215 (August 2013), amended LR 39:

§2324. Credit Recovery

A. Credit recovery refers to instructional programs for students who have failed courses taken previously.

B. LEAs may develop credit recovery programs which are self-paced and competency-based.

1. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course.

2. Students shall not be required to meet attendance requirements for credit recovery courses

3. Credit recovery courses must be aligned with the state's content standards.

4. Credit recovery courses taught in a classroom setting using computer software programs designed for credit recovery must be facilitated by a certified teacher.

a. Additional instruction to cover standards and grade-level expectations not included in the software programs shall be provided by a teacher properly certified in the content area.

5. The End of Course exam weight in a student's final grade determined by the LEA shall be the same for a traditional course and a credit recovery course. Students who have previously passed the End of Course exam, but have failed the course, may choose to retain their previous End of Course exam score in lieu of participating in an additional administration of the exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted,

amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Standards and Curricula**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed policy revisions do not impact costs for state or local governmental units.
The proposed policy revisions clarify recent changes to the Carnegie credit and credit recovery policies.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no determinable effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#037

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.543)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* §543. Restrictions on the Use of Seclusion or Physical Restraint. The proposed policy implements Act 1 of the 2013 Regular Legislative Session which requires the Board of Elementary and Secondary Education to ensure that the guidelines for the appropriate use of seclusion rooms and restraint of students shall only apply to students with disabilities.

**Title 28
EDUCATION**

**Part XLIII. Bulletin 1706—Regulations for
Implementation of the Children with Exceptionalities
Act**

**Subpart I. Regulations for Students with Disabilities
Chapter 5. Procedural Safeguards
Subchapter C. Seclusion and Physical Restraint
§543. Restrictions on the Use of Seclusion or Physical
Restraint**

A. - K.3....

L. The guidelines and procedures shall be provided to all school employees and every parent of a child with a disability.

M. ...

N. The Department of Education shall maintain a database of all reported incidents of seclusion and physical

restraint of students with disabilities and shall disaggregated the data for analysis by school, student age, race, ethnicity, and gender, student disability, where applicable, and any involved school employees.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012), repromulgated LR 38:1225 (May 2012), amended LR 38:1404 (June 2012), amended LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

- 1. Will the proposed Rule affect the stability of the family? No.
- 2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
- 3. Will the proposed Rule affect the functioning of the family? No.
- 4. Will the proposed Rule affect family earnings and family budget? No.
- 5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
- 6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

- 1. Will the proposed Rule affect the household income, assets, and financial security? No.
- 2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
- 3. Will the proposed Rule affect employment and workforce development? No.
- 4. Will the proposed Rule affect taxes and tax credits? No.
- 5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the

objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed policy does not impact costs for state or local governmental units.
The proposed policy implements Act 1 of the 2013 Regular Legislative Session which requires the Board of Elementary and Secondary Education to ensure that the guidelines for the appropriate use of seclusion rooms and restraint of students shall only apply to students with disabilities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no determinable effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1309#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Comprehensive Revisions (LAC 28:I.305, 307, 309, 311, 313, 315, 501, 503, 701, 703, 705, 709, 713, 715, 719, 901, 903, 1101, 1103, 1105, 1107, 1109, and 1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement revisions to the *Louisiana Administrative Code*, Title 28, Part I. Revisions to Title 28: Education, Part I: Board of Elementary and Secondary Education bring the BESE Code into alignment with current law and policy. The edits in this notice of intent include technical and clarifying revisions to the BESE Code, along with revisions to the following sections:

- §313. Recovery School District—Clarifies the bulletins to which the RSD may be subject.

- §315. Board Staff—Removes staff appointment ratification requirement and clarifies duties of BESE staff in regard to charter schools.
- §501. Committees—Clarifies circumstances under which certification denials occur.
- §503. Advisory Councils—Clarifies proxies for members of the Superintendents’ Advisory Council not eligible for travel reimbursement and clarifies language pertaining to scheduling meetings.
- §705. Agenda—Clarifies the timeline for establishing the emergency agenda and Board member requests to add items to an agenda.
- §709. Board and Committee Meeting Protocol—Clarifies the manner in which agenda items added by Board members will be considered.
- §713. Public Comments—Clarifies when public comment cards are encouraged to be submitted and time allotments for public comment.
- §719. Minutes—Addresses how to record Board members not in attendance at committee meetings.
- §1107. Minimum Foundation Program—Allows Local Education Agency (LEA) participation in an alternate U.S. Department of Agriculture (USDA) food service program.
- §1303. Rulemaking—Aligns Code with updates to the Administrative Procedures Act.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 3. Composition and General Authority

§305. Election of Officers and Their Duties

- A. ...
- B. The president shall conduct board meetings and perform duties designated by the board or by statute. The president shall sign, on behalf of the board, contracts, agreements, and/or official documents approved by the board. The president is authorized to make ad hoc decisions for the board in emergency situations when the board is not in regular or special session and where policies and statutes are silent. However, any such decisions that constitute an obligation, official position, or action of the board are subject to ratification by the board at the next scheduled meeting. The president shall appoint members of committees of the board.
- C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3 and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008), amended LR 38:3149 (December 2012), LR 39:

§307. General Powers and Duties

- A. - A.14. ...
- 15. Authorize the operation of type 2, type 4, and type 5 charter schools and provide oversight through the LDE of type 2, type 4, and type 5 charter schools.
 - a. ...
 - b. Enter into any proposed charter that complies with the charter school law and policy upon a determination that the charter is a valid, complete, financially well-structured, and educationally sound proposal that offers potential for fulfilling the purposes of the charter school law.

15.c. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII §8, R.S. 17:6(A), R.S.17:7(2)(a), R.S. 17:7(3), R.S. 17:7(4), R.S. 17:7(5), R.S. 17:7(6)(a)(i), R.S. 17:7(7), R.S. 17:7(8), R.S. 17:4.1, R.S. 17:43, R.S. 17:348, R.S. 17:6(A)(10), R.S. 17:6(A)(11), R.S. 17:10.5, R.S. 17:1990 and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 38:3150 (December 2012) LR 39:

§309. State Superintendent

A. - A.1....

2. The board shall enter into a contract with the state superintendent that delineates the terms and conditions of employment. The length of the contract shall be determined by the board, but may not extend past the end of the term of office of the board members making the appointment, except that the contract may provide that the state superintendent may serve until the succeeding board has made an appointment.

A.3. - E.3. ...

4. The state superintendent may review the responsibilities of the LDE and prepare a plan to restructure and reorganize the LDE subject to the approval of the board and in accordance with Louisiana Revised Statutes 36:645.

5. - 6.b....

c. The state superintendent shall appoint the recovery school district superintendent with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the recovery school district superintendent will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

6.d. - 7.a. ...

i. courses of study prescribed by the board will be followed;

a.ii. - f. ...

8. The state superintendent shall make recommendations to the board for the approval of type 5 charter schools, subject to the policies and processes approved by the board.

E.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:21(C), 17:6(B), 17:21(B), 17:21(D), 17:21(A), 17:1990, 17:24(A), 17:24(B), 17:24(C), 17:24(D), 17:22(2)(f), 36:645, 17:22(6), 17:88(B), 17:88(D), 17:92, 17:10.6(A)(2), 17:3983, 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 37:886 (March 2011), LR 38:3150 (December 2012) LR 39:

§311. The Special School District

A. - A.1....

a. The Louisiana special schools are state-operated schools providing educational programs and services for residential and/or day students. The Louisiana special schools are established to provide a free appropriate public education for children with low incidence disabilities who meet the admission criteria (i.e., deaf, blind, orthopedically

impaired) for each such special school and who are enrolled in such special school.

A.1.b. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:4.1, R.S. 17:6(B), R.S. 17:43, R.S. 17:1945, R.S. 36:642(C)(1), and R.S. 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008), amended LR 38:3151 (December 2012) LR 39:

§313. The Recovery School District

A. - C. ...

1. Policies for the board's administrative oversight of the recovery school district shall be adopted by BESE and set forth in the recovery school district bulletin. Administrative oversight shall include, but not be limited to:

a. policy governing activities that will ensure the purpose and functions of the recovery school district are being achieved;

b. fiscal responsibilities are being met;

c. community involvement is sought;

d. property is managed and developed under uniform and established guidelines;

e. student progress is measured and corrective action is taken when necessary;

f. district progress is measured in all essential areas and corrective action is taken when necessary;

g. reporting and planning measures are defined;

h. compliance with law and board policy exists;

i. charter school oversight exists; and

j. the recovery school district plan is being fulfilled.

2. - 2.i. ...

3. The recovery school district shall be subject to other BESE bulletins, including but not limited to the BESE charter school bulletin, to the extent that they are applicable to schools under its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(B), and R.S. 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010), LR 38:3151 (December 2012), LR 39:

§315. Board Staff

A. - B. ...

C. The executive director shall appoint unclassified administrative staff.

D. - E.1. ...

2. assist in the policymaking functions, including the formulation and maintenance of regulating bulletins and rules;

3. - 7. ...

8. monitor the LDE's development and implementation of charter school policy and its oversight of charter schools authorized by BESE;

E.9. - F. ...

G. All persons who are subject to the jurisdiction of the board and sign checks shall be bonded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(15), R.S. 17:6(A)(10), R.S. 17:3(D), Article VII § 10.1, R.S. 17:3801, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 38:3152 (December 2012), LR 39:

Chapter 5. Organization

§501. Committees

- A. - B.1.a.i. ...
 (a). increasing accountability; and
 i.(b). - ii. ...
 (a). policy concepts and subcommittee reports;
 a.iii. - b. ...
 i. critical updates;
 1.b.ii. - 3.a.i. ...
 (a). policy concepts;
 (b). certification revocations;
 (c). records reviews for:
 (i). certification denials due to felony convictions and the submission of fraudulent documents;
 (ii). revocations due to felony convictions;
 (iii). revocations due to submission of fraudulent documents;
 3.a.ii. - 4.a.i. ...
 (a) charter amendment requests, approvals, extensions, and renewals, etc.;

a.ii. - b.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2139 (July 2011), LR 38:3152 (December 2012), repromulgated LR 39:308 (February 2013), LR 39:

§503. Advisory Councils

- A. - C.1.b. ...
 i. Eleven members, one member recommended by each BESE member from the member's assigned category, as follows:
 1.b.i.(a). - 3.b.i. ...
 ii. the superintendent of the recovery school district (RSD), who is appointed by the state superintendent of education;
 iii. ...
 c. expenses. Members shall not receive reimbursement for travel expenses from the board.
 d. Referrals/Responsibilities
 i. Consider all matters referred by the board or the LDE.
 ii. Recommendations from the superintendents' advisory council shall be reported to the appropriate board committee. The LDE shall provide responses to the recommendations.
 4. Textbook/Media/Library Advisory Council
 a. Authority—per state statute (R.S. 17:415.1).
 b. - b.iii. ...
 iv. 11 members, one member recommended by each board member, from the member's assigned category, as follows:

C.4.b.iv.(a). - F. ...

1. Terms. Unless otherwise provided by state or federal law, persons appointed by board members shall serve two-year staggered appointments at the pleasure of their recommending authority. Persons appointed by organizations and agencies other than BESE shall serve terms determined by the appointing authority. All appointments shall be made in July of the appropriate year, as determined by BESE staff.

A council member may be removed without cause by the board member recommending the appointment, by the board member's successor, or by the recommending agency at any time. Appointees must maintain employment/qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced.

F.2. ...

3. Expenses. Members of advisory councils may be entitled to reimbursement for travel expenses, if specified by statute or not prohibited by board policy, pending availability of funds. Requests for reimbursement for expenses shall be submitted in accordance with the regulations promulgated by the commissioner of administration in the *Louisiana Travel Guide*.

4. Quorum. Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take unofficial action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present. When it is known beforehand that a quorum is unlikely, the council chair shall be so notified and the meeting shall be canceled.

5. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as that member's proxy if the appointing authority does not object. Proxies shall retain voting privileges. To receive reimbursement for travel and other expenses, a proxy must be properly designated by the active member and recorded in the minutes as being present. If the proxy is representing an advisory council member who is prohibited by board policy from receiving reimbursement for travel expenses, the proxy is likewise prohibited from receiving reimbursement.

F.6. - G.1. ...

2. Regular meeting dates shall be scheduled one year in advance and shall be determined by the executive director or the executive director's designee.

3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, and R.S. 17:11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR:38:3152 (December 2012), LR 39:

Chapter 7. Operations

§701. Public Meeting Notice

A. - B. ...

C. Cancellations. Cancellations of any board or committee meetings shall be made after a 24-hour public notice of the cancellation. In the event of the absence of a quorum at the scheduled time and place of the meeting, the meeting shall be cancelled because a quorum must be present in order that official business may be legally transacted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:14, R.S. 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 39:

§703. Regular and Special Meeting Schedules

A. - H.1....

2. When the board convenes itself as a Committee of the Whole, it acts as any committee. Its discussion is limited to the agenda item(s), and it has no greater authority than a regular committee. The board president convenes and adjourns the meeting, and each committee chair presides over that portion of the meeting pertaining to the issues routinely considered by his/her committee. Votes are not final, and committee actions are considered to be recommendations from the committee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(E), R.S. 17:6(A)(10), and Article VIII, Section 5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 35:1874 (September 2009), LR 37:2141 (July 2011), LR 38:3153 (December 2012) LR 39:

§705. Agenda

A. - A.2....

3. A board member, the state superintendent, or the executive director must request that an item be placed on the emergency agenda at least 26 hours prior to a scheduled meeting. The emergency agenda must be posted publicly at least 24 hours prior to the scheduled meeting.

B. Establishing Committee Agenda

1. The agenda for each committee shall consist of only those items listed in the public notice in accordance with the Louisiana Open Meetings Law.

2. The agenda for each committee meeting may include consent items, standing items, unfinished business, new business resulting from board referrals, and public comments received regarding Notices of Intent.

3. Items shall be placed on a committee agenda by using either the board's referral process or the draft agenda process as established through a board protocol. Items may be referred by board members, the state superintendent, or the BESE executive director. Board members must submit agenda item requests at least 18 days prior to a scheduled committee meeting.

C. ...

D. Distribution and Posting of the Agenda. The agenda for board and committee meetings shall be distributed to board members at least 10 days prior to the meeting date and posted on the web at <http://www.bese.louisiana.gov>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:

§709. Board and Committee Meeting Protocol

A. - B.5.g. ...

h. refrain from engaging in prolonged question and answer dialogue with staff on specific issues that could otherwise be addressed before or after the meeting.

B.6. - D.4. ...

5. For agenda items added by board members, the following shall apply:

a. presentations and backup materials shall be presented in consult with and/or by LDE/BESE staff; or

b. presentations and discussions shall be time limited to 10 minutes, unless a majority of board members vote to extend the time limit for the item.

6. A board member may request from the LDE any public document that has already been prepared or is in a readily available form.

7. A board member may not request new research, records, or reports not available and which requires compilation or research without a motion adopted by a majority of the board.

8. Persons other than board members, the executive director, staff persons assigned to the committee, or the state superintendent should not be on the dais while business is being conducted.

9. The presiding officer or chair should ask all presenters to identify themselves for the record.

10. Private discussions among board member(s), staff, or the state superintendent should occur away from the designated meeting area. The audience is asked to go outside the meeting room to conduct personal discussions.

11. Board members are asked to remain seated when individuals are making presentations to the board or receiving recognition by the board, as it is always an honor to be recognized by state-level officials.

12. Cell phones and other electronic devices must be turned off or taken to the side rooms for conversations, when activated.

13. Each member shall have the opportunity to speak on personal privilege following request by the member and recognition by the presiding officer. This privilege shall be conducted according to *Robert's Rules of Order*.

14. When a member feels the rules are being violated as to procedure, the member may make a point of order request to the presiding officer, calling for a ruling and an enforcement of the regular rules. A point of order request shall follow procedures in *Robert's Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:13, R.S. 17:3(C), R.S. 42:14, and R.S. 42:16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:

§713. Public Comments

A. To carry on its business in an orderly and efficient manner, the board utilizes committees. Full discussion of board business optimally occurs at the committee level, and public comment should be received at that time, rather than after a recommendation has been forwarded to the board. Opportunity to comment publicly on a committee or board agenda item shall be provided to a representative number of proponents and opponents according to the following procedures.

1. Persons desiring to address the committee/board should complete a request to comment card and submit it to the presiding officer or a BESE staff member prior to the beginning of the meeting. The completed card should identify the issue or item to be addressed. Other members of the public may be recognized at the discretion of the presiding officer or chair.

2. - 5. ...

6. Submission of comment cards at least five minutes prior to the beginning of the meeting is encouraged.

7. - 8. ...

9. Public comments are limited to no more than 3 minutes per individual and 5 minutes per designated spokesperson of a group/organization. The chair may

increase or decrease the time allotted to speakers, within time constraints.

10. The presiding officer or chair shall have discretion to manage situations not addressed in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 42:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008), amended LR 36:59 (January 2010), LR 37:2141 (July 2011), LR 38:3154 (December 2012), LR 39:

§715. Executive Session

A. - D. ...

1. a statement identifying the court, case number, and the parties relative to any pending litigation, or

2. a statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:16, R.S. 42:17, and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), LR 39:

§719. Minutes

A. - B.1....

2. the members recorded as either present or absent (board members who do not attend committee meetings should be recorded as "not in attendance");

3. the substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken; and

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:20.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 37:2142 (July 2011), LR 38:3154 (December 2012), LR 39:

Chapter 9. Equal Employment

§901. Equal Employment Opportunity; Affirmative Action

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, Title VII of the Civil Rights Act of 1964), BESE upholds the following policy: This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in employment in all agencies and institutions under its direct supervision. Applicants and employees will not be discriminated against on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor in any aspect of employment such as recruitment, hiring, promotion, retention, tenure, discharge, layoff, compensation, leave, fringe benefits, training, or any other employment practice or benefit.

B. Should violations of any equal employment opportunity laws and regulations occur, appropriate disciplinary action will be taken by the appointing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 38:3154 (December 2012), LR 39:

§903. Civil Rights Compliance and Assurances

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; §504 of the Rehabilitation Act of 1973), BESE upholds the following policy:

This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in all programs or activities under its direct jurisdiction including city, parish, or other local public school systems or other entities receiving state or federal financial assistance through the board. No one will be discriminated against in any employment practice or in any educational program or activity on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor.

B. - C. ...

D. The LDE staff will conduct compliance activities as required by agencies providing funding to ensure compliance with their regulations.

E. ...

F. All city, parish, or other local public school systems or other entities under the jurisdiction of the board which receive state or federal financial assistance through the board will sign an assurance document stating that they will comply with all applicable board policies, LDE regulations, and federal and state laws regarding civil rights compliance.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3154 (December 2012), LR 39:

Chapter 11. Finance and Property

§1101. Projects and Facilities

A. Capital Projects

1. All requests for new capital construction or renovation projects submitted by board entities, including the special school district and the recovery school district, shall comply with all applicable state laws, all applicable regulations issued by the Division of Administration, and all BESE policy.

2. Requests for capital projects from the special school district shall be submitted to the superintendent of the special school district.

3. All requests for any given fiscal year shall be prioritized by the LDE, and the LDE shall present the priority listing of projects to the board. The board shall approve all capital construction or renovation projects and the priority of the requests prior to submission to the executive and legislative branches of government or prior to implementation of a project, as applicable.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3154 (December 2012), LR 39:

§1103. Purchasing, Auditing, and Contracts for Professional Services

A. Purchasing. Entities under the jurisdiction of the board shall comply with all applicable federal and state laws, rules, regulations, and board policy which govern the purchase of goods and services.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3155 (December 2012), LR 39:

§1105. Budgets

A. General Policies

1. The LDE, including the special school district and the recovery school district, and all entities under the jurisdiction of the board shall submit all budget requests for all funds (state, federal, self-generated, etc.) to the board for review and approval. The entities shall be responsible for complying with all state laws and regulations regarding budget submission to the executive and legislative branches of government.

2. ...

B. Budget Submission. The LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall submit their budgets to the board in a timely manner for approval prior to submission to the Division of Administration and legislative offices.

C. Budget Forms. The LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall submit their budgets on the forms prescribed by the Division of Administration.

D. ...

E. Interim Emergency Board. Prior to the submission of a request for funding from the Interim Emergency Board of the legislature, the LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall complete requests on forms prescribed by the Interim Emergency Board and shall receive approval for submission by the board. Submissions to the Interim Emergency Board shall be in compliance with all rules promulgated by that board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 38:3155 (December 2012), LR 39:

§1107. Minimum Foundation Program

A. MFP: General Provisions

1. Board Adoption

a. The state superintendent of education shall prepare and recommend to the board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In preparing this recommendation, the state superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

1.b. - 2....

a. It shall be the responsibility of city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to submit to the LDE in a timely manner all necessary and required information for the computation of an individual allocation from the minimum foundation formula. This information shall be submitted to the LDE in the form required by the LDE. It shall also be the responsibility of all city, parish, or other local school systems, recovery school district schools, and

LSU and Southern Lab schools to follow all circulars issued by the LDE providing instructions for the preparation of the required data and other instructions regarding the computation of an allotment from the formula.

B. MFP Payments

1. City, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

C. MFP—Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; Office of Juvenile Justice schools; New Orleans Center for Creative Arts (NOCCA); and Louisiana School for Math, Science, and the Arts (LSMSA) shall adhere to the following:

a. All students included for membership in a school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding, the following guidelines will be adhered to:

i. - ii.(c). ...

iii. students who are in BESE-approved alternative programs (schools) in city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; or Office of Juvenile Justice schools will be included in the base student membership count.

C.1.b.iv. - D.1. ...

a. At-risk student count shall be determined by the following:

i. for those schools or school systems participating in the National School Lunch Program (NSLP) using meal benefits applications for free and reduced price meals, the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current income eligibility guidelines include those students qualifying to participate in the federal free and reduced price breakfast and lunch program. The fall count is determined by the number of students qualifying for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS). For any additional required count date(s), the at-risk student count will be those qualifying for free and reduced price lunch as reported in SIS, as of that count date; and

ii. for those schools or school systems participating in an alternate USDA food service program such as Provision 2 or Community Eligibility Option (CEO), the percentage rate for free and reduced price lunch will be frozen at the latest available free and reduced price lunch percentage prior to participation in the program and shall be multiplied by the base membership count to determine add-on low income students.

b. English Language Learner Student Count shall be determined by the number of students reported in SIS as English Language Learners.

c. Career and Technical Education Unit Count shall be determined by the number of Secondary Career and Technical Education courses per student as reported by the school districts through the Louisiana Education Accountability Data System (LEADS) for the prior year.

d. Special Education—Other Exceptionalities Student Count shall be determined by the number of Special Education students identified as having "other exceptionalities" in the Special Education Reporting (SER) database as of the student count date(s) including:

i. infants and toddlers ages 0-2, who have a current Individual Family Service Plan (IFSP) and are currently receiving services; and

ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who have a current Individual Education Plan (IEP) and are currently receiving services from any local public school system or school. (Students serviced by SSD#1 and certain correctional facilities are excluded.)

e. Special Education—Gifted and Talented Student Count shall be determined by the number of Special Education students in the SER database as of the student count date(s), which includes both public and nonpublic special education students ages 3-21, identified as gifted and talented, as defined by R.S. 17:1943, who have a current IEP and are currently receiving services from any local public school system or school.

f. Economy of Scale Student Count shall be determined by the number of students in the base student membership count as defined in LAC 28:I.1107.C.1.

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011), LR 37:3219 (November 2011), LR 38:1404 (June, 2012), LR 38:3155 (December 2012), LR 39:

§1109. Expenditure of Public Education Monies

A. All public education funds, in particular all state and federal monies, shall be allocated and expended in compliance with applicable federal and state laws, regulations, and policies. Any public employee of the board office who knowingly recommends or authorizes contract awards and/or expenditure of funds in violation of federal and state laws and/or BESE regulations or policies shall be subject to disciplinary action, including dismissal from employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), LR 39:

Chapter 13. Regulatory Documents

§1303. Rulemaking

A. - C. ...

1. The board approves a proposed Rule to be advertised as a Notice of Intent. The Notice of Intent approval will serve as authorization for the BESE executive director to submit the Notice of Intent to the *Louisiana Register* for final adoption as a Rule at the expiration of the

required 90-day advertisement period, if no public comments are received relevant to said Notice of Intent. If comments are received regarding the Notice of Intent, the comments will be considered by the board prior to final adoption as a Rule (refer to 2.e. through 2.f.ii. below).

2. Following Approval of a proposed Rule to be advertised as a Notice of Intent

a. The appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Statement, a Small Business Statement, a Public Comments Paragraph, a Fiscal and Economic Impact Statement (FEIS), and comparison language (if applicable) to the board recorder for processing.

b. ...

c. After the Fiscal and Economic Impact Statement is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Louisiana Register* for publication. A report regarding the rule is also submitted to the appropriate legislative committees.

d. - f.ii. ...

3. The deadline for submission of information for publication of Notices of Intent or Rules in the *Louisiana Register* is the 10th of the month.

D. Due to the board meeting schedule, the Fiscal and Economic Impact Statement approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Chaffe Educational and Training Voucher
Program Eligibility (LAC 28:IV.1805)

accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Comprehensive Revisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The changes to Louisiana Administrative Code, Title 28, Part I, bring the "BESE Code" into alignment with current law and policy.

This policy change will have no fiscal effect other than an estimated cost of \$825 to advertise in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Heather Cope
Executive Director
1309#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

George Badge Eldredge
General Counsel

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking amends Section 1805 of LASFAC's Scholarship/Grants program for the Chafee Educational and Training Voucher Program to provide that a student must be ages 16-21 to be eligible for the program.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 18. Chafee Educational and Training Voucher Program

§1805. Eligibility

A. To establish eligibility, a student must:

1. be ages 16 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and

2. be in the foster care system, or aged out of the foster care system, or was under Legal Guardianship, or was in the foster care system or under Legal Guardianship and was adopted after age 16; and

3. be enrolled in postsecondary education; and

4. annually complete the Free Application for Federal Student Aid.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), LR 39:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973. (SG14148NI)

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.*

Public Comments

Interested persons may submit written comments on the proposed changes (SG14148NI) until 4:30 p.m., September 10, 2013, to Dr. Sujuan Williams Boutté, Interim Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Chafee Educational and Training
Voucher Program Eligibility**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This proposed change raises the minimum eligibility age for a Chafee Education and Training Voucher (ETV) Program federal grant from fifteen to sixteen to comply with the program eligibility requirements outlined in the Memorandum of Understanding (MOU) with the Department of Children and Family Services (DCFS). Since students participating in the Chafee ETV must be sixteen, there will be no impact on federal program expenditures due to the proposed change and the agency has no record of any fifteen year old applying for the program.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state and local governments will not be affected by the proposed changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition and employment resulting from these measures.

Sujuan Boutee
Interim Executive Director
1309#001

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—2013 Legislation
(LAC 28:IV.301, 703, 1701, and 1703)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements Acts 140 and 359 of the 2013 Regular Session of the Louisiana Legislature by amending the Taylor Opportunity Program for Students (TOPS) rules.

The list of high schools from which students may graduate and participate in TOPS is expanded to include high schools outside of Louisiana that are authorized to offer an International Baccalaureate Diploma when the student graduates with such a diploma in 2009-2010 or later.

The TOPS core curriculum is revised to change the courses required for students graduating in 2017-2018 and thereafter to qualify for a TOPS award. The calculation of the TOPS Cumulative Grade Point Average is revised for students graduating in 2017-2018 and thereafter to provide that Advanced Placement, International Baccalaureate, Gifted and Dual Enrollment courses are graded on a 5.00 scale.

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Dual Enrollment Course—A course for which both high school and college credit may be granted.

Gifted Course—A course developed and provided to fulfill an Individualized Education Program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq. as implemented in State Board of Elementary and Secondary Education policy.

TOPS Cumulative High School Grade Point Average—

a. effective for high school graduates beginning with academic year (high school) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the TOPS cumulative high school grade point average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one advanced mathematics course, the cumulative grade point average shall be determined by using only the course in which the student has received the highest grade;

b. effective for high school graduates beginning with academic year (high school) 2002-2003, the grade point average for students qualifying for a performance award using a minimum ACT score of 24 and a minimum grade point average of 3.00 must include at least 10 units of honors curriculum courses (see §703.A.5.f.ii);

c. effective for high school graduates beginning with academic year (high school) 2007-2008, the grade point average shall be calculated on 17.5 hours of units of courses that are used to satisfy the core curriculum;

d. effective for high school graduates beginning with academic year (high school) 2013-2014, the grade point average shall be calculated on 19.0 hours of units of courses that are used to satisfy the core curriculum;

e. effective for high school graduates through academic year (high school) 2016-2017, for those high schools that utilize other than a 4.00 scale, all grade values shall be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

For example, if a school awards a maximum of 5 points for honors courses, the school must use the following formula to convert an honors course grade of "C":

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

f. effective for high school graduates beginning with academic year (high school) 2017-2018, the TOPS Cumulative Grade Point Average will be calculated by dividing the total number of quality points earned on the courses used to complete the TOPS core curriculum by the total units earned to complete the TOPS core curriculum.

Quality points equal the credit for the course multiplied by the value assigned to the letter grade.

The quality points for courses used to complete the TOPS core curriculum, except for Advanced Placement, International Baccalaureate, Gifted and dual enrollment courses, shall be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

The quality points for Advanced Placement, International Baccalaureate, Gifted and Dual Enrollment courses used to complete the TOPS core curriculum shall be converted to a 5.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{5.00 (\text{Maximum Scale})}$$

Examples

1. If a school awards a maximum of 5 points for honors courses, use the following formula to convert an honors course grade of "B" to the 4.00 scale:

$$\frac{4.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 16; X = 3.20$$

2. If a school awards a maximum of 6 points for Advanced Placement courses, use the following formula to convert an Advanced Placement course grade of "C" to the 5.00 scale:

$$\frac{3.00}{6.00} = \frac{X}{5.00}$$

By cross multiplying,

$$6X = 15; X = 2.50$$

3. If a school awards a maximum of 4 points for Gifted courses, use the following formula to convert an Gifted course grade of "A" to the 5.00 scale:

$$\frac{4.00}{4.00} = \frac{X}{5.00}$$

By cross multiplying,

$$4X = 20; X = 5.00$$

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 39:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - A.5.a.i.(e). ...

* * *

(f). beginning with the graduates of academic year (high school) 2013-14 through 2016-2017, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course)
2	Foreign Language, both units in the same language

(g). beginning with the graduates of academic year (high school) 2017-2018, at the time of high school

graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
English – 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math – 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL
Science – 4 Units	
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, or IB Physics II; AP Physics I and AP Physics II; Biology II or AP Biology or IB Biology II
Social Studies – 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1/2	Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
1/2	Economics, AP Macroeconomics, or AP Microeconomics
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics
Foreign Language – 2 Units	
2	Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB

Units	Course
Art – 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; or Theatre I IB
	Note: AP = Advanced Placement IB = International Baccalaureate

ii.(a). ...

* * *

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math –Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(c). For students graduating in academic year (high school) 2009-2010, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II	

(d). For students graduating in academic year (high school) 2010-2011 through academic year (high school) 2016-17, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)	Anatomy and Physiology
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
World Geography	AP Human Geography
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math—Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math—Functions and Statistics was formerly referred to as Advanced Mathematics II	

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying

the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
½ unit: Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States AND ½ unit: Economics, AP Macroeconomics, or AP Microeconomics	Civics (one unit)
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted course and shall fulfill the core curriculum requirement in its given subject area.

A.5.a.iii.(a) - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools
§1701. Eligibility of Graduates Based upon the High School Attended

A. - A3.d. ...

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana:

i. which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE); or

ii. which high school has been approved by the Southern Association of Colleges and Schools' Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above; or

iii. for students graduating during the 2002-2003 school year and thereafter, which high school has been approved by a regional accrediting organization recognized by the United States Department of Education and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above; and

iv. for students graduating during the 2009-2010 school year and thereafter with an International Baccalaureate Diploma, which high school has been approved by the International Baccalaureate Organization to issue such a diploma.

b. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the Leveraging Educational Assistance Partnership Program;

c. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

d. A school will be deemed to be approved by the appropriate state agency if that state agency certifies:

i. that the high school in question received funding from the state to cover all or a portion of the costs of instruction; and

ii. that the high school in question adopted and does adhere to state and federal non-discrimination policies and statutes.

5. Out of Country High Schools

a. All other public or non-public high schools located outside the United States or the territories of the United States that meet the standards adopted by BESE for approval of nonpublic schools in Louisiana and which are accredited by an accrediting organization recognized by the United States Department of Education; and

b. Those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad; and

c. For students graduating during the 2009-2010 school year and thereafter with an International Baccalaureate Diploma, those high schools located outside the United States and its territories that have been approved by the International Baccalaureate Organization to issue such a diploma.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:67 (January 2000), LR 26:1997 (September 2000), repromulgated LR 27:1862 (November 2001), amended LR 30:784 (April 2004), LR 30:1165 (June 2004), LR 34:242 (February 2008), LR 39:

§1703. High School's Certification of Student Achievement

A. - B.2.a. ...

b. Commencing with the 2003 academic year (high school), certification shall contain, but is not limited to, the following reportable data elements:

i. student's name and Social Security number;

ii. month and year of high school graduation;

iii. the course code for each course completed;

iv. the grade for each course completed;

v. designation of each Advanced Placement, International Baccalaureate, Gifted and Dual Enrollment course;

vi. the grading scale for each course reported;

vii. list the high school attended for each course reported; and

viii. through the graduating class of the academic year (high school) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended. After the graduating class of the academic year (high school) 2002-2003, core unit requirements may not be waived.

B.3. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), repromulgated LR 27:1863 (November 2001), amended LR 29:880 (June 2003), LR 30:1165 (June 2004), LR 39:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. (SG13147NI)

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG13147NI) until 4:30 p.m., September 10, 2013, to Sujuan Williams Boutté, Ed. D., Interim Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs
2013 Legislation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of changes required by Acts 140 and 359 of the 2013 Regular Legislative Session will result in an increase in TOPS expenditures because they will result in additional students becoming eligible to receive a TOPS Award. The magnitude of the increase is difficult to determine, but is anticipated to be minimal during the next five fiscal years. Act 140 modifies the list of high schools from which students can graduate and participate in TOPS by including high schools outside of Louisiana that are authorized to offer an International Baccalaureate High School Diploma when the student graduates with such a diploma during the 2009-2010 Academic Year or later. Act 359 revises the TOPS Core Curriculum and the TOPS Cumulative Core Curriculum GPA calculation for students graduating during the 2017-2018 Academic Year (College), with any fiscal impact appearing in state fiscal year 2018-2019 and later that is outside the scope of this fiscal impact statement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A limited number of Louisiana students will now become eligible for TOPS award payments to help finance their postsecondary education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by the proposed change.

George Badge Eldredge
General Counsel
1309#002

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Examiners of Interior Designers**

Use of Term (LAC 46:XLIII.1001)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3171 that the Board of Examiners of Interior Designers proposes to amend its existing rules and regulations to clarify the definition of a registered interior designer and to restate the definition of the practice of interior design.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLIII. Interior Designers

Chapter 10. Use of Term

§1001. Limitation of Use of Term

A. Only those who are a *registered interior designer* licensed by the board may use the appellation registered interior designer or the plural thereof in advertising or in

business usage when referring to themselves or services to be rendered.

B. Definitions. The purpose of this section is to clarify the definition of a *registered interior designer* and to restate the definition of the practice of *interior design*. The primary purpose of a *registered interior designer* is to protect the public and to adhere to the Life Safety Codes, requirements of the Americans with Disability Act, and other building codes, statutes and ordinances which may apply to the interior spaces of a structure.

Board—the Louisiana State Board of Examiners of Interior Designers.

Interior Design—includes a scope of services performed by a professional design practitioner, qualified by means of education, experience, and examination as required by statute, to protect and enhance the health, life safety and welfare of the public. These services may include any or all of the following tasks.

a. *Interior design* includes but is not limited to space planning, finishes, furnishings, and the design for fabrication of nonstructural elements within and surrounding interior spaces of buildings.

b. *Interior design* specifically excludes the design of or the responsibility for architectural and engineering work, as defined by those occupations' organic statutes.

c. In all other matters interior designers are entitled to do all those things itemized in the practice of *interior design* stated below.

Interior Design Document—detailed drawings and specifications sealed and signed by a registered interior designer in accordance with applicable current building codes, ordinances, laws and regulations that define the work to be constructed in such form as is required for approval of a construction permit by a building official or fire marshal. Such document may be combined with documents prepared under the responsible control, seal and signature of other registered or licensed professionals.

Non-Structural or Non-Seismic—interior elements or components that are not load-bearing or do not assist in the seismic design and do not require design computations for a building's structure. It excludes the structural frame supporting a building. Common non-structural elements or components include, but are not limited to, ceiling and *partition* systems. These elements employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Partition—a wall which does not support a vertical load of a structure other than its own weight, but may support loads attached to it such as cabinetry, shelving or grab bars, and does not extend further than from the floor of an interior area of a structure designed for human habitation or occupancy, to the underside of the deck of that structure.

Practice of Interior Design—the rendering of services to enhance the quality and function of an interior area of a structure designed for human habitation or occupancy. The term includes:

a. an analysis of a client's needs and goals for an interior area of a structure designed for human habitation or occupancy and the requirements for safety relating to that area;

b. the formulation of preliminary designs for an interior area designed for human habitation or occupancy that are appropriate, functional, and code compliant;

c. the confirmation that preliminary space plans and design concepts are safe, functional, aesthetically appropriate, and meet all public health, safety and welfare requirements, including code, accessibility, environmental, and sustainability guidelines;

d. the selection of colors, materials and finishes to appropriately convey the design concept and to meet socio-psychological, functional, maintenance, lifecycle performance, environmental, and safety requirements;

e. the development and presentation of final design documents that are appropriate for the alteration or construction of an interior area of a structure designed for human habitation or occupancy;

f. the collaboration with licensed professionals in preparation of interior design contract documents for the alteration or construction of an interior area of a structure designed for human habitation or occupancy, including specifications for partitions, materials, finishes, furniture, fixtures, and equipment;

g. the collaboration with licensed professionals in the completion of a project for the alteration or construction of an interior area of a structure designed for human habitation or occupancy;

h. the preparation and administration of bids or contracts as the agent of a client;

i. the review and evaluation of problems relating to the design of a project for the alteration or construction of an area designed for human habitation or occupancy during the alteration or construction and upon completion of the alteration or construction;

j. preparing *interior design documents* reflecting space planning, finishes, furnishings, and the design for fabrication of nonstructural interior construction within interior spaces of buildings; reflected ceiling plan and location of teledata and electrical outlets;

k. preparing *interior design documents* in accordance with life safety of proposed or modification of existing nonstructural and non-engineered elements of construction such as partitions, doors, stairways, and paths of egress connecting to exits or exit ways; and

l. modification of existing building construction so as to alter the number of persons for which the egress systems of the building are designed.

Practice of Interior Design—encompasses the ability to submit documents required for the issuance of building permits or other construction documents, either by the registered interior designer alone or in collaboration with other licensed design professionals responsible for structural, mechanical, electrical, or life safety systems. This includes those systems, such as sprinklers, fire alarms, special locking, or cooking hood suppression, that require a review by the professional of record prior to submittal.

Programming—the scope of work which includes, but is not limited to, conducting research; identifying and analyzing the needs and goals of the client and/or occupant(s) of the space; evaluating existing documentation and conditions; assessing project resources and limitations; identifying life, safety and code requirements; and developing project schedules and budgets.

Reflected Ceiling Plan—a ceiling design that illustrates a ceiling as if it was projected downward and may include lighting and other code compliant elements.

Registered Interior Designer—a person who has received a certificate of registration pursuant to the provisions of this Chapter.

Space planning—the analysis, programming, or preparation of design to meet special requirements, including preliminary space layouts, placement of partitions, furniture and equipment, and final planning in accordance with life safety codes.

Specifications—the detailed written description of construction, workmanship and materials of the work to be undertaken.

Sustainability—the use of resources in such a way that they are not depleted; a method of practice or use of materials that is capable of being continued with minimal long-term effect on the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004), LR 34:1925 (September 2008), LR 39:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 3:30 p.m., October 11, 2013, to Sandy Edmonds, Board of Examiners of Interior Designers, 11736 Newcastle Avenue, Bldg 2, Suite C, Baton Rouge, LA 70816.

Sandy Edmonds
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Use of Term

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change will have no impact on state or local government expenditures. The proposed Rule change clarifies the definition of a registered interior designer and to restate the definition of the practice of interior design.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change will have no impact on state or local government unit revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change will have no cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed Rule change will have no effect on competition and/or employment.

Sandy Edmonds
Executive Director
1309#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Uniform Payroll**

Employee Payroll Benefits Committee (EPBC)
(LAC 4:III.103)

In accordance with R.S. 42:455, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll is proposing to adopt amendments to the Rule regarding payroll deductions for state employees. The purpose of the amendment is to clarify the membership on the Employee Payroll Benefits Committee and the process for filling vacancies.

**Title 4
ADMINISTRATION
Part III. Payroll**

Chapter 1. Payroll Deductions

§103. Employee Payroll Benefits Committee (EPBC)

A. A committee comprised of 12 nominated and three ex-officio state employees of the departments of the executive branch of state government or the Office of the Governor, as defined under R.S. 36:4, and may include a representative from higher education, established by the Commissioner of Administration to fulfill the requirements of §106 and §112 of this Rule. Ex-officio members shall be: director or assistant director of OSUP, a designee of the Commissioner of Insurance, and a representative from the Office of Group Benefits. Ex-officio members shall be non-voting members.

B. The EPBC was established in 1996 by the Uniform Payroll System Payroll Steering Committee. Original members served staggered terms as follows:

1. 4 members, one-year term;
2. 4 members, two-year term; and
3. 4 members, three-year term.

C. Successive committee appointments shall be for a period of three years beginning July 1.

D. There may be more than one committee member per department of the executive branch of state government or the Office of the Governor, as defined under R.S. 36:4.

E. Prior to May 1, annually, the EPBC through OSUP shall submit, to the Commissioner of Administration, nominees for each of the four vacancies which will occur each year.

F. The Commissioner of Administration shall affirm or reject the nominations and submit such to OSUP prior to June 1 each year.

G. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more, shall be filled by appointment by the Commissioner of Administration.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the Commissioner of Administration.

2. The Commissioner of Administration shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), LR 32:85 (January 2006), LR 39:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as defined by R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.6). The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons may submit written comments to Andrea P. Hubbard, Director of the Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., October 18, 2013.

Monique Appeaning
Assistant Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Employee Payroll
Benefits Committee (EPBC)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated direct material effect on state agencies or local governmental units as a result of the proposed administrative Rule. The proposed administrative Rule clarifies the membership of the Employee Payroll Benefits Committee, adding a representative from the Office of Group Benefits and a representative from Higher Education, and clarifies the process for filling vacancies.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment as a result of this proposed action.

Monique Appeaning
Assistant Commissioner
1309#056

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Uniform Payroll**

**State Combined Charitable Campaign Deduction
(LAC 4:III.Chapter 11)**

In accordance with R.S. 42:456.A.(3), notwithstanding any other provision of law to the contrary, the Division of Administration, Office of State Uniform Payroll is proposing to adopt the following rules regarding a State Combined Charitable Campaign.

The purpose of the Rule is to further the implementation of a payroll deduction plan for efficient, long term collection of employee contributions to qualified nonprofit community health and human services charities coordinated and payable through the Louisiana Association of United Ways as the Principal Combined Fundraising Organization for the solicitation, receipt and distribution of such contributions among qualifying charitable organizations. By establishing a uniform policy towards charitable fundraising efforts among state employees, the state hopes to encourage generosity in voluntary financial support for the charitable services of the qualified organizations in the communities where the employees live and work.

The intent of these regulations is to provide a convenient channel through which state employees may contribute to the efforts of the qualifying nonprofit community health and human services charities providing services in the community or region where the employees live and work,

minimize both the disruption of the state work place and the costs to taxpayers that charitable fundraising may entail, and ensure that recipient charities are fiscally responsible in the uses of the monies so raised.

Title 4

ADMINISTRATION

Part III. Payroll

**Chapter 11. State Combined Charitable Campaign
(SCCC) Deductions**

§1101. Definitions

Agency Number—three digit identifier representing a single agency in the LaGov HCM payroll system which serves as a key for processing and reporting.

Campaign Period—the period of solicitation by the Principal Combined Fundraising Organization when contributions will be obtained for the State Combined Charitable Campaign. The campaign period will occur annually in the fall.

Campaign Coordinator—the state employee designated by the agency/department head to attend coordinator training, secure campaign materials and support from the Principal Combined Fundraising Organization, prepare and send communications as required to support the annual campaign at his/her location, arrange for a presentation to employees, turn in pledge forms to the Principal Combined Fundraising Organization, maintain confidentiality of pledge information, and complete the campaign evaluation form for their agency.

Charitable Organization—a volunteer, not-for-profit organization under section 501(c)(3) of the Internal Revenue Code which provides health or human services to individuals.

Charity List—a comprehensive listing of charitable organizations approved to be included in the materials prepared for and/or presented in the State Combined Charitable Campaign.

Contribution—biweekly deduction authorized by an employee during the campaign period.

Data File—the body of information documented by copies of correspondence between the Office of State Uniform Payroll, the Principal Combined Fundraising Organization, departments/agencies, charitable organizations, and state employees relative to employee solicitation, participation, contributions, and service from the Principal Combined Fundraising Organization.

Deduction—any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency—as referenced herein shall be any one of the major departments of the executive branch of state government or any subdivision thereof as defined under R.S. 36:4.

Division of Administration (DOA)—the Louisiana state agency under the executive department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Guidelines for Review—as referenced herein shall mean the set of criteria established for the annual evaluation process.

LaGov Human Capital Management Payroll System (LaGov HCM)—the statewide system administered by the

Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Memorandum of Understanding (MOU)—written agreement between the Principal Combined Fundraising Organization and the Division of Administration through the Office of State Uniform Payroll to ensure compliance with rules and other necessary requirements in carrying out annual campaigns.

Office of State Uniform Payroll (OSUP)—the section within the Division of Administration primarily responsible for the administration of the rules governing state employee payroll deductions.

Principal Combined Fundraising Organization (PCFO)—the organization which conducts and manages an annual campaign among state employees on behalf of participating charitable organizations. The Louisiana Association of United Ways (LAUW) shall serve as the principal combined fundraising organization for the Louisiana State Combined Charitable Campaign.

SED-7—as referenced herein shall be the standard form, State Combined Charitable Campaign Application, required to be submitted with any application.

SED-8—as referenced herein shall mean the standard State Combined Charitable Campaign Deduction Authorization form developed by the Division of Administration, Office of State Uniform Payroll used to process employee charitable organization deductions.

State Combined Charitable Campaign (SCCC)—the annual combined charitable fundraising program established by law to receive and distribute voluntary payroll deduction contributions of state employees paid through the LaGov HCM payroll system. The State Combined Charitable Campaign shall be the only authorized payroll deduction charitable fundraising effort among state employees.

Substantial Local Presence—operations of at least 20 hours per week in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1103. Deduction Rule Authority

A. OSUP is responsible for the administration of the rules governing state employee payroll deductions. Nonprofit community health and human services charity deductions that are authorized through OSUP are for all state employees and all state agencies of the executive branch of state government as defined under R.S. 36:4 who are paid through the central payroll system, LaGov HCM. The rules established hereunder do not create substantive rights in favor of any charitable organization or PCFO, nor do they create a cause of action in favor of any charitable organization or PCFO against or among themselves, or against the State, any participating agency, a campaign coordinator or any other employee, person or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1105. Fees

A. Fees incurred as a result of the State Combined Charitable Campaign shall be handled in accordance with

the procedures agreed upon by OSUP and the PCFO as outlined in the MOU.

1. The PCFO shall deduct all fees from the employee's contribution prior to distributing contributions to charitable organizations.

2. Disclosure of any and all fees shall be included on the standard State Combined Charitable Campaign Deduction form (SED-8) and included in campaign material, and displayed on any electronic enrollment site.

3. The PCFO shall provide OSUP with a breakdown of fees withheld on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1107. Charitable Organization Application Process

A. Applications must be submitted annually and will be accepted by OSUP between January and March 1 each year. The standard application form (SED-7) can be obtained from OSUP.

1. Applications must meet all requirements established by OSUP and the PCFO as outlined in §1111.

2. Charitable organizations that do not provide all documentation and/or do not meet all eligibility requirements established by OSUP and the PCFO will not be considered. Charitable organizations who do not meet all requirements will receive written notification from OSUP of denial of their application.

B. OSUP and the PCFO will conduct a review of all applications submitted for compliance and eligibility as stated in this rule. OSUP/PCFO will maintain basic guidelines for review to follow in the conduct of the annual review of charitable organizations. These guidelines are on file at OSUP/PCFO and are available upon request.

C. On or before April 30 annually, OSUP shall provide to the commissioner of administration, or his designee, recommended actions relative to charitable organization compliance with all other provisions of this rule.

D. On or before May 31 annually, the commissioner of administration, or his designee, shall advise OSUP whether recommendations have been accepted or denied.

E. On or before June 30 annually, OSUP will:

1. notify each charitable organization whether their application was approved or denied. Approval of charitable organization in no way constitutes endorsement or certification of the charitable organization by the state;

2. notify the PCFO of the charitable organizations approved to be included on the charity list for the upcoming campaign period.

F. Any charitable organization that was included in the preceding charitable campaign must complete a new application annually in order to be included in the next annual charitable campaign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1109. Definition of Community Health and Human Services Charities

A. Defined as federations or agencies whose primary mission is to directly benefit human beings in a non-

discriminatory manner, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped.

B. Services must consist of assistance, care, research, or education in the fields of human health or social adjustment or rehabilitation; relief for victims of natural disasters and other emergencies; or assistance to those who are impoverished and in need of food, clothing, shelter, and basic human welfare services.

C. A community health and human services charity may serve Louisiana as a whole, or may serve a targeted geographic area of Louisiana, or may target certain demographics of Louisiana residents with health or medical needs unique or predominating in the defined population.

D. Specific exemptions may be made from time to time for charities that primarily serve the poor overseas in the aftermath of natural or man-made disasters and emergencies.

E. The following are specifically excluded from consideration as health and human services charities.

1. Educational Charities: organizations whose primary purpose is the direct or indirect financial support of a particular institution or affiliated institutions of primary, secondary or higher education. An education-affiliated charity that otherwise meets the definition of a community health and human services charity, which provides those services and which does not divert public support to the financial support of a particular institution or affiliated institutions of primary, secondary or higher education, shall not be excluded as a community health and human services charity by virtue of its educational affiliation.

2. Cultural Charities: organizations whose primary purpose is cultural, including those which concern themselves primarily with promoting, assisting, identifying, teaching or empowering individuals, groups, families, or communities to accept, identify with, participate in or learn about particular non-health related characteristics or activities of a state, country or region, or an ethnic, national, religious, ancestry or cultural group, including but not limited to: race, national origin, religion, ancestry, sexual orientation, practices, age, art, crafts, architecture, beliefs, industry, music, dance, sports, literature, food, history or fashion associated with such a group.

3. Religious Charities: organizations whose primary purpose is religious, including those which concern themselves primarily with promoting, assisting or empowering a particular religion or belief system, or which promotes, assists or empowers individuals, groups, families or communities to accept, identify with, participate in, worship under, convert to or learn about the particular beliefs, teachings or practices of a religion. A religious-affiliated charity that otherwise meets the definition of a community health and human services charity, which provides those services, and which does not divert public support to religious purposes or activities, shall not be excluded as a community health and human services charity by virtue of its religious affiliation.

4. Political Purpose Charities: organizations whose primary purpose is political, including those which concern themselves primarily with promoting, assisting or empowering a particular political party, set of political beliefs, set of political ideas, or endorsing a particular candidate or set of candidates or political party, or which

promotes, assists or empowers individuals, groups, families and communities to participate in the political process, vote, organize to vote or to support political candidates, or to accept, identify with or learn about the political views of any candidate, group, party or organization. An organization which otherwise meets the definition of a community health and human services charity but which has diverted public support to a political purpose, may be excluded from consideration as a health and human services charity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1111. Charitable Organization Requirements and Responsibilities

A. Charitable organization applicants shall meet and maintain the following:

1. provide an annual application as set forth in §1107 of this Rule;

2. comply with R.S. 42:456(A)(3):

a. be a health and human services charity as defined in §1109 of this Rule;

b. not be organized for cultural, educational, religious, or political purposes, as defined in §1109 of this Rule;

3. comply with the following admissions criteria as outlined on the official application form (SED-7):

a. certify compliance with the USA Patriot Act of 2001;

b. certify the organization operates without discrimination in regard to all persons and comply with all requirements of law and regulations respecting non-discrimination and equal employment opportunities with respect to its officers, staff, employees and volunteers;

c. provide documentation that the IRS recognizes the charitable organization as a public charity under §501(c)(3) of the Internal Revenue Code;

d. ensure that an equivalent amount collected as contributions will be spent to provide services and benefits primarily to the citizens of Louisiana unless an exception is granted per §1109.D of this Rule, and certify the dollar value of health and human services provided in the state of Louisiana during the previous calendar year(s);

e. certify a substantial local presence within the state of Louisiana;

f. demonstrate that fundraising and administrative expenses represent no more than 25 percent of total support and revenue according to the submitted copy of its most recent IRS 990 form or a pro forma IRS 990 for organizations not required to file an IRS 990;

g. be registered and in good standing with the Louisiana secretary of state and submit proof of that registration;

h. be governed by a board of directors which meets regularly and whose members serve without compensation;

i. provide the organization's most recent annual budget, which must consist of a 12-month period;

j. provide the organization's most recent audited financial statements conducted by a CPA within the last 12 months at the time of the application;

k. indicate the regions served in Louisiana;

4. agree to pay a reasonable annual participation fee assessed by the PCFO and approved by OSUP;

5. solicitation of charitable donations through payroll deduction is only allowed during the annual campaign period, or other time periods approved by OSUP and the PCFO. All solicitation materials must be prepared and approved by OSUP and the PCFO;

6. provide all documentation and meet all deadlines and eligibility requirements established by the PCFO in coordination with OSUP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1113. PCFO Requirements and Responsibilities

A. The PCFO shall:

1. enter into a MOU with the Division of Administration through the Office of State Uniform Payroll;

2. be registered and in good standing with the Louisiana secretary of state;

3. maintain all records as required by federal and state laws;

4. provide to OSUP annually and as requested, reports containing data as required by OSUP;

5. provide the projected campaign budget to OSUP annually for approval;

6. report the fee structure to OSUP for approval. Any changes in the fee structure must be approved by OSUP;

7. disclose to OSUP any and all fees that are associated with the oversight of the campaign period, enrolling charitable organizations in the campaign, accepting funds from the LaGov HCM payroll system on behalf of donor employees, and disbursement of these funds to the participating charitable organizations;

8. submit a report to OSUP of total dollars/number of deductions sent to each charitable organization on a frequency agreed upon, with an option to obtain employee detail as requested;

9. review applications submitted by charitable organizations, ensure applicants meet all requirements and provide recommendations to OSUP;

10. submit campaign materials to OSUP for review and approval prior to the annual campaign period;

11. print and supply annual campaign and publicity materials;

12. include a list of charities in campaign materials that are approved for payroll deduction;

13. ensure campaign materials include disclosure of all fees/administrative costs that will be deducted from contributions. The State of Louisiana shall not be liable for any fees/administrative costs charged in association with the SCCC. All fees and administrative costs shall be assessed in accordance with federal and state law, and shall be consistent with nationwide charitable giving standards;

14. oversee the annual campaign period solicitation;

15. ensure employee solicitations are conducted only during duty hours using methods that permit true voluntary giving and shall reserve to the individual the option of disclosing any gift or keeping it confidential;

16. disburse contributions to charitable organizations in accordance with employee deduction authorizations less any agreed upon fees;

17. maintain records that indicate employee choice of specific charitable organization selected for payroll deduction.

18. provide documentation for audit purposes within 30 days of notification by OSUP or other state entity;

19. ensure that payroll deductions are submitted using the standard State Combined Charitable Campaign Deduction Authorization form (SED-8) approved by OSUP and the PCFO for use by agencies/employees paid through the LaGov HCM payroll system or through other authorized electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1115. Deduction Guidelines

A. Deductions must be authorized by employees on the approved deduction form (SED-8) or through other authorized electronic means.

B. An employee shall not make a designation to a charitable organization not listed in the official approved charitable organizations authorized for payroll deduction list.

C. An employee shall be allowed to make a designation to any charitable organization listed in the official approved charitable organizations authorized for payroll deduction list regardless of the region they live or work in.

D. No deduction will be taken in any pay period in which the employee's net pay, after all legal and previously authorized deductions, is insufficient to cover the portion of the employee's pledge which would normally be deducted. No adjustments will be made in subsequent periods to withhold any missed deductions.

E. An employee may cancel their deduction at any time. No refunds will be issued to employees for any amounts withheld from a previous pay period prior to cancellation.

F. Deductions will be withheld from employee's paychecks every payday and funds will be remitted to the PCFO by OSUP on a monthly basis via electronic funds transfer (EFT).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1117. Department/Agency Responsibility

A. The department/agency shall:

1. designate a Campaign Coordinator;

2. provide time during normal working hours for volunteers to perform their assigned campaign responsibilities and for campaign presentations to all employees;

3. only accept the standard State Combined Charitable Campaign Deduction Authorization form (SED-8);

4. forward all SED-8 forms to the PCFO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1119. Rule Transition

A. All existing United Way entities receiving payment through payroll deduction on the LaGov HCM payroll system on the effective date of this rule shall continue to

receive payment separately from the PCFO until January 2015. Beginning January 2015 all payments will go through the PCFO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1121. Removal of Charitable Organization from the SCCC for Cause

A. OSUP, in coordination with the Division of Administration's Commissioner's Office, may remove a charitable organization from the SCCC for violating the provisions of this rule, other applicable provisions of law, or any directive or instruction from OSUP.

B. OSUP will consider previous violations, harm to state employee confidence in the SCCC, and any other relevant factors in its decision to remove a charitable organization from the SCCC.

D. A charitable organization will be notified in writing of OSUP's intent to remove them from the current campaign and will have 10 business days from the date of the receipt of the notice to submit a written response.

E. OSUP's final decision will be communicated in writing to the charitable organization, with a copy being sent to the PCFO.

F. A charitable organization removed from the SCCC under any provision of this rule must demonstrate to the satisfaction of OSUP that they have taken corrective action to resolve the reason for removal and they have implemented reasonable and appropriate controls to ensure that the situation will not occur again prior to being allowed to participate in subsequent SCCC's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

§1123. Appeal Process

A. Any charitable organization participating in the SCCC that is removed from the SCCC for any reason shall have the right to have that action reviewed by filing a written request for review with the commissioner of administration.

B. Any charitable organization filing an application to become a participating charitable organization in the annual SCCC that is subsequently denied from participating in the SCCC shall have the right to have that action reviewed by filing a written request for review with the commissioner of administration.

C. Written requests sent to the commissioner of administration must be:

1. filed within 10 days from the notice of removal / denial;

2. a written decision shall be rendered by the commissioner of administration on any request for review within 14 days of receipt of the written appeal;

D. the decision of the commissioner of administration shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule could have an indirect economic benefit to anyone receiving services from a charitable organization participating in the campaign.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption.

1. The Effect on Household Income, Assets, and Financial Security. We anticipate the proposed Rule could have an indirect economic benefit to anyone receiving services from a charitable organization participating in the campaign.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. We anticipate no impact from the proposed Rule on Early Childhood Development and Preschool through Postsecondary Education Development.

3. The Effect on Employment and Workforce Development. We anticipate no impact from the proposed Rule on Employment and Workforce Development.

4. The Effect on Taxes and Tax Credits. We anticipate no impact from the proposed Rule on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no impact from the proposed Rule on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.6). The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons may submit written comments to Andrea P. Hubbard, Director of the Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., October 18, 2013.

Monique Appeaning
Assistant Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Combined Charitable
Campaign Deduction**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed administrative Rule establishes a combined charitable campaign to allow state employees to contribute to eligible charities through payroll deduction in accordance with Act 501 of the 2012 Regular Legislative Session. This expands the charitable options already allowed prior to Act 501. Any fiscal impact is directly related to the number of payroll deductions requested by state employees and the number of nonprofit organizations chosen to participate in the campaign.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
State of Louisiana employees, State of Louisiana human resource/payroll staff, approved charitable organizations and the Louisiana Association of United Ways will be directly affected by this Rule. A non-quantifiable economic benefit will be received by anyone receiving services from a charitable organization participating in the campaign.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment as a result of this proposed action.

Monique Appeaning
Assistant Commissioner
1309#057

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Purchasing**

Information Technology Software Includes
Software as a Service (LAC 34:I.5505)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 39:197(1) the Office of the Governor, Division of Administration, Office of State Purchasing, proposes to adopt §5505 E, to include Software as a Service within the definition of information technology software.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part I. Purchasing

**Subpart 3. Equipment-Lease-Purchase Program
Chapter 55. Procedures for Information Technology
Hardware, Software, Software
Maintenance and Support Services, and
Hardware Maintenance**

**§5505. Procedures for the Procurement of Information
Technology Software**

A. - D.4. ...

E. For the purposes of this section software includes Software as a Service (SaaS). Software as a Service means access to a computer software program that is owned, delivered, and managed remotely by an external service provider on a pay-per-use basis whereby the software is a business application based on a single set of common code and data definitions and the application data is owned and updated by the state or state entity. A formally signed Service Level Agreement (SLA) is required as part of every SaaS engagement with use of pre-printed external service provider SLA's being prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2378 (November 2003), LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

It is anticipated that the proposed action will have no significant effect on:

- 1. household income, assets, and financial security;
- 2. early childhood or educational development;
- 3. employment and workforce development;
- 4. taxes and tax credits; or
- 5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Public Comments

Interested persons may submit written comments to George Grazioso, Office of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804-9095. He is responsible for responding to inquiries regarding this proposed Rule. All comments must be received by October 10, 2013, by close of business.

Jan B. Cassidy
Assistant Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Information Technology Software
Includes Software as a Service**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule is anticipated to have no fiscal impact to state or local governmental entities. The proposed rule places the definition of Software as a Service within the definition of information technology software. Software as a Service (SaaS) is defined by the proposed rule to mean access to a computer software program that is owned, delivered and managed remotely by an external service provider on a pay-per-use basis.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule is anticipated to have no impact on state and local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed rule will likely have a non-quantifiable economic benefit to vendors. Software as a Service is not currently defined in the procurement administrative rules. Thus, any SaaS engagement currently applies to the procurement rules of operating services, which require anything over \$25,000 be publically bid. By defining SaaS engagements in the information technology section of the procurement rules, the threshold is \$100,000 for public bid. Thus, vendors will not be required to submit formal RFPs of SaaS, which will likely result in a non-quantifiable economic benefit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule is anticipated to have no major impact on competition and employment. Although defining SaaS under the information technology procurement rules ultimately increases the public bid requirement threshold from \$25,000 to \$100,000, state agencies will still be required to follow the software procurement procedures set out in LAC 34:I.5505.

Jan B. Cassidy
Assistant Commissioner
1309#018

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Chiropractic Examiners**

Dry Needling; Interns; Licensure and Certification
(LAC 46:XXVII.321, 322, 601, and 602)

Notice is hereby given that the Board of Chiropractic Examiners, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and relative to its authority to adopt, amend or repeal Rules provided by R.S. 37:2804, proposes to adopt LAC 46:XXVII.321, dry needling, LAC 46:XXVII.322, supervision of chiropractic interns, LAC 46:XXVII.601, licensure for individuals with military training and for military spouses, and LAC 46:XXVII.602, certification of x-ray proficiency for individuals with military training and for military spouses.

The board proposes to adopt LAC 46:XXVII.321, dry needling, to establish regulation and standards for the utilization of dry needling techniques by chiropractic physicians. The board proposes to adopt LAC

46:XXVII.322, supervision of chiropractic interns, as part of its regulatory authority over chiropractic licensees in the state. The board proposes to adopt LAC 46:XXVII.601, licensure for individuals with military training and for military spouses, and LAC 46:XXVII.602, certification of x-ray proficiency for individuals with military training and for military spouses, as directed by the legislature pursuant to R.S. 37:3651. The actions proposed are strictly part of the board enforcement function.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXVII. Chiropractors

Chapter 3. Professional Conduct

§321. Dry Needling

A. The purpose of this rule, as authorized by R.S. 37:2803, is to provide for the interpretation of R.S. 37:2801(3)(a) to include dry needling and to provide with respect to utilization of the techniques by chiropractic physicians. Dry needling is a physical rehabilitation measure which requires specialized education and training and which falls within the chiropractic scope of practice under the following terms. Prior to utilization of dry needling techniques chiropractic physicians shall successfully complete a board approved course of study consisting of no fewer than 50 hours of face-to-face instruction in intramuscular dry needling treatment and safety. The practice of dry needling techniques without compliance of this education requirement constitutes unprofessional conduct and subjects the licensee to appropriate discipline by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 39:

§322. Supervision of Chiropractic Interns

A. A licensed chiropractor is not eligible to supervise a chiropractic intern if the licensee has been subject to disciplinary action by the board three or more times in the last 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 39:

**Chapter 6. Individuals with Military Training and
Military Spouses**

**§601. Licensure for Individuals with Military Training
and for Military Spouses**

A. Notwithstanding any other provision of law to the contrary, the board shall issue a license to practice chiropractic to a military trained chiropractor that at the time of application to the board satisfies all of the following conditions:

1. has completed a military program of training for chiropractic, been awarded a military occupational specialty in chiropractic, and performed in the specialty of chiropractic at a level that is substantially equivalent or which exceeds the requirements for licensure in this state;
2. has engaged in the active practice of chiropractic;
3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice chiropractic in this state at the time the act was committed.

B. Notwithstanding any other provision of law, the board shall issue a license to practice chiropractic to a military trained applicant if, upon application to the board, the applicant holds a current license from another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure in this state as set forth in R.S. 37:2805.

C. Notwithstanding any other provision of law, the board shall issue a license to practice chiropractic to a military spouse to allow the military spouse to lawfully practice chiropractic in the state of Louisiana, if, upon application, the military spouse satisfies all of the following conditions:

1. holds a current license in another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure as set forth in R.S. 37:2805.

2. can demonstrate competency in the occupation through methods as determined by the board, which include:

a. obtaining 18 continuing education units;

b. maintaining a license and active practice in good standing in another jurisdiction for a minimum of two years immediately prior to application with the board.

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice chiropractic in this state at the time the act was committed.

4. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

D. The board shall issue a temporary permit to a military trained applicant or military spouse applicant while the application for licensure is processed by the board, if the military trained applicant or military spouse applicant is licensed in another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure as set forth in R.S. 37:3805. The military trained applicant or military spouse applicant may practice under the temporary permit until the license is granted by the board or until a notice to deny a license is issued by the board, but at no time shall the temporary permit be issued for more than four months. The military trained applicant or military spouse applicant practicing under the temporary permit must comply with all laws governing the practice of chiropractic in this state.

E. The board shall give priority consideration in processing an application for licensure by an individual possessing a temporary permit under the provisions of this Section.

F. Nothing in this Section shall be construed to prohibit a military trained applicant or military spouse applicant from proceeding under the existing licensure requirements established by the board.

G. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 39:

**§603. Certification of X-ray Proficiency for
Individuals with Military Training and for
Military Spouses**

A. Notwithstanding any other provision of law to the contrary, the board shall issue a certificate of proficiency in

x-ray function to any military-trained chiropractic assistant that at the time of application to the board satisfies all of the following conditions:

1. has completed a military program in education and training for x-ray function, at a level that is substantially equivalent to or which exceeds the requirements for certification in this state;

2. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a certificate of proficiency in x-ray function in this state at the time the act was committed.

B. Notwithstanding any other provision of law, the board shall issue a certificate of proficiency in x-ray function to a military spouse, if, upon application, the military spouse satisfies all of the following conditions:

1. holds a current certificate of proficiency in x-ray function in another jurisdiction and that jurisdiction's requirements for certification are substantially equivalent to or exceed the requirements for certification as set forth by R.S. 37:2828;

2. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a certificate of proficiency in x-ray function in this state at the time the act was committed;

3. is in good standing and has not been disciplined by the agency that issued the certification.

C. The board shall issue a temporary permit to a military trained applicant or military spouse applicant while the application for certification is processed by the board, if the military trained applicant or military spouse applicant holds a valid certificate in another jurisdiction and that jurisdiction's requirements for certification are substantially equivalent to or exceed the requirements for certification as set forth in this chapter. The military trained applicant or military spouse may practice under the temporary permit until the certificate is granted by the board or until a notice to deny a certificate is issued by the board, but at no time shall the temporary permit be issued for more than four months. The military-trained applicant or military spouse practicing under the temporary permit must comply with all laws governing the practice of chiropractic in this state.

D. The board shall give priority consideration in processing an application for a certificate of proficiency in x-ray function to an individual possessing a temporary permit under the provisions of this Section.

E. Nothing in this Section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing certification requirements established by the board.

F. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

G. The holder of the x-ray proficiency certificate must register annually with the board on or before July 31. Failure to register with the board on an annual basis shall result in removal of that person's name from the board's list of x-ray proficiency certificate holders.

H. Any application for certification must be accompanied with payment of the fee fixed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 and R.S. 3650.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 39:

Family Impact Statement

1. What effect will this have on the stability of the family? The proposed Rules will not affect the stability of the family.

2. What effect will this have on the authority and rights of person regarding the education and supervision of their children? The proposed Rules will not affect the authority or rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? These Rules will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? The Rules relating to military trained individuals and military spouses will potentially aid family earnings by allowing expedited consideration for certification and licensure. The remaining Rules will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rules will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a Board of Chiropractic Examiners enforcement function.

Poverty Impact Statement

1. What effect will this have on household income, assets, and financial security? The Rules relating to military trained individuals and military spouses will potentially aid household income, assets, and financial security by allowing expedited consideration for certification and licensure by the board. The remaining Rules will not affect household income, assets, and financial security.

2. What effect will this have on early childhood development and preschool through postsecondary education development? The proposed Rules will not affect early childhood development and preschool through postsecondary education development.

3. What effect will this have on employment and workforce development? The proposed Rules will not affect employment and workforce development, other than the Rules relating to military trained individuals and military spouses will enable qualified individuals to become licensed or certificated by the board on an expedited basis.

4. What effect will this have on taxes and tax credits? The proposed Rules will have no effect on taxes and tax credits.

5. What effect will this have on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? The proposed Rules will have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Public Comments

Written comments may be addressed to Patricia Oliver, Executive Director, Board of Chiropractic Examiners, 8621 Summa Avenue, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m., October 21, 2013.

Patricia Oliver
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dry Needling, Interns; Licensure and Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs or savings to state or local governmental units resulting from these Rule changes. The board proposes to adopt 46:XXVII.321, dry needling, to establish regulation for the utilization of dry needling techniques by chiropractic physicians. The board proposes to adopt 46:XXVII.322, supervision of chiropractic interns, as part of its regulatory authority over chiropractic licensees in the state. The board proposes to adopt 46:XXVII.601, licensure for individuals with military training and for military spouses, and 46:XXVII.602, certification of x-ray proficiency for individuals with military training and for military spouses, as directed by the legislature pursuant to R.S. 37:3651. The actions proposed are strictly part of the board's enforcement and regulatory functions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rules relating to military trained individuals and spouses and dry needling will increase the marketability of certain chiropractic physicians. There are no costs to directly affected persons or non-governmental groups, and the economic benefits to directly affected persons or non-governmental groups are unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rules relating to military training will allow certain individuals an expedited avenue to become licensed in the state thereby being able to gain employment faster. The Rule relating to dry needling will allow for increased marketability of certain chiropractic physicians that possess knowledge, skills and training in dry needling. The proposed Rule change relating to supervision of interns should not effect employment, unless a licensee is engaging in inappropriate conduct, which would subject him/her to discipline by the board.

Patricia Oliver
Executive Director
1309#054

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners in Dietetics and Nutrition

Licensure (LAC 46:LXIX.101, 103, and 109)

Editor's Note: The following Notice of Intent is being repromulgated to correct submission errors. The original Notice can be viewed in its entirety in the July 20, 2013 *Louisiana Register* on pages 2056-2058.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085(2), that the Louisiana Board of Examiners in Dietetics and Nutrition

intends to update the definition of Louisiana Association to reference the Academy of Nutrition and Dietetics, formerly known as the American Dietetic Association. The board intends to revise the qualifications to reflect 900 hours rather than 1200 hours to mirror the language in the Practice Act, although CADE requires 1200 hours. The board intends to promulgate a rule regarding the expedited licensing of military personnel and the spouses of military personnel in response to Act 276 of the 2012 Legislative Session. The board intends to amend its rules regarding Consent Agreement and Orders offered to individuals practicing without a license which will make the Consent Agreement and Order disciplinary action. The board is requesting one "housekeeping" type amendment to revise language, but not the intent of the Rule regarding applicants for licensure.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIX. Registered Dietitians

Chapter 1. Dietitians/Nutritionists

§101. Definitions

A. ...

* * *

Louisiana Association—the Louisiana Dietetic Association, an affiliate of the Academy of Nutrition and Dietetics (AND).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1094 (June 1999), LR 37:2152 (July 2011), LR 39:

§103. Qualifications for Licensure

A. - B.1. ...

2. An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The experience must be completed in the United States or its territories. Supervised dietetic practice accredited by CADE of the Academy of Nutrition and Dietetics will be accepted in lieu of the board-approved plan.

C. - D.2. ...

E. Licensing of Qualified Military-trained Applicants and Spouses of Military Personnel

1. A military-trained dietitian/nutritionist is eligible for licensure as a dietitian/nutritionist as provided for in Subsections A-D of this Section provided the applicant:

a. has completed a military program of training in dietetics and nutrition and has been awarded a military occupational specialty or similar official designation as a dietitian/nutritionists with qualifications which are substantially equivalent to or exceed the requirements of the applicable license (including the provisional license authorized by R.S. 37:3087) which is the subject of the application;

b. has performed dietetics and nutritionist services in active practice at a level that is substantially equivalent to

or exceeds the requirements of the applicable license which is the subject of the application;

c. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and,

d. has not received a dishonorable discharge from military service.

2. A military-trained dietitian/nutritionist, who has not been awarded a military occupational specialty or other official designation as a dietitian/nutritionist, who nevertheless holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the license for which he or she is applying, is eligible for licensure, by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and,

b. has not received a dishonorable discharge from military service.

3. A spouse of a member of the active-duty military forces or a spouse of a former member of the military forces who has not received a dishonorable discharge and who holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the applicable license for which he or she is applying, is eligible for licensure by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and,

b. is in good standing and has not been disciplined by the agency that issued the license.

4. The procedures governing the applications of military-trained applicants and applicants who are spouses of military personnel, including the issuance and duration of temporary practice permits and priority processing of applications, are provided for in §109.J.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011), LR 39:

§109. Application for Licensure

A. - H. ...

I. An applicant who meets all the requirements of R.S. 41:37:3086 or 3087 and who has worked more than 30 days as a dietitian/nutritionist in the state of Louisiana and who has not otherwise violated any part of R.S. 41:3081-3094 or its rules and regulations, may be offered the following

options in the form of a consent order and agreement to resolve the situation:

1. - 3. ...

4. the consent agreement and order shall be considered disciplinary action, and will be published by LBEDN.

J. Procedures for Applications of Military-trained Applicants or Spouses of Military Personnel, Issuance of Temporary Practice Permits and Priority Processing of Applications

1. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.1, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the official military document showing the award of a military occupational specialty in dietetics and nutrition and a transcript of all military course work, training and examinations in the field of dietetics and nutrition;

c. documentation showing the applicant's performance of dietetics/nutritionist services, including dates of service in active practice, at a level which is substantially equivalent to or exceeds the requirements of the license which is the subject of the application;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed.

2. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.2, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

c. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed.

3. In addition to the application procedures otherwise required by this Section, a spouse of a member of the active-duty military forces or a spouse of a former member of the military forces as specified in §103.E.3, applying for licensure, shall submit with the application:

a. a copy of the current military orders of the military spouse of the applicant and the applicant's military identification card or a copy of the military report of transfer or discharge of the military spouse of the applicant which shows an honorable discharge from military service;

b. a copy of the applicant's marriage license and an affidavit from the applicant certifying that he or she is still married to a military spouse or former military spouse;

c. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed and is in good standing and has not been disciplined by the agency that issued the license.

e. documentation demonstrating competency in dietetics/nutritionist practice at the level which is the subject of the application and/or completion of appropriate continuing education units;

4. Applicants who present completed applications and the supporting documentation required by this Rule are eligible for a temporary practice permit as a dietitian/nutritionist or provisional dietitian/nutritionist, whichever is the subject of the application. The board, through its staff, will give priority processing to such applications and, subject to verification of applications and supporting documentation, issue the appropriate temporary practice permit not later than 21 days after the completed application is submitted. The temporary practice permit authorizes the applicant to practice dietetics/nutrition at the designated level, consistent with the verified application and supporting documentation for a period of 60 days from the date of issuance.

5. As soon as practicable, but not longer than the duration of the applicant's temporary practice permit, the board will grant the application for the applicable license which is the subject of the application or notify the applicant of its denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2153 (July 2011), LR 39:

Family Impact Statement

The proposed changes have no anticipated impact on the family.

Poverty Impact Statement

The proposed rulemaking will have no impact as described in R.S. 49:973.

Public Comments

Interested person may submit written comments to Emily Efferson, Administrator, by mail at 18550 Highland Road, Suite B, Baton Rouge, LA 70809, email at emily@lbedn.org or by fax at (225) 756-3472. Written comments will be accepted until 4:30 p.m. on October 10, 2013.

Emily Efferson
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Licensure

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation savings to state or local governmental units through promulgation of the proposed Rule changes. The estimated cost to the Louisiana Board of Examiners in Dietetics and Nutrition (LBEDN) paid to the State Register for publishing the Notice of Intent is \$1,500. The estimated cost to upload the new Rules to the website is \$100. All implementation expenditures will be made in FY 13. Since the LBEDN anticipates only one to two expedited licensure application processing requests each year from military personnel or spouses under the rule changes to LAC 46:LXIX.103, any workload increases are anticipated to be minimal and will be absorbed by current staff and resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed changes will have no effect on revenue collections of state or local governmental units. There are no new fees or fee collections resulting from expedited processing of licenses for military personnel and their spouses under LAC 46:LXIX.103.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Rule changes to LAC 46:LXIX.103 make a technical correction in order to align with R.S. 37:3086 (Dietetic and Nutrition Practice Act). This change returns the requirement for continuous supervised practice in dietetics by an applicant for licensure to 900 hours instead of 1,200 hours in order to comply with the Dietetic and Nutrition Practice Act. This correction should have no impact on applicants since most academic curriculums require 1,200 hours regardless of the Board's requirements.

The LBEDN also proposes to add "Licensing of Qualified Military-trained Applicants and Spouses of Military Personnel" to Section 103 in response to mandates relative to Act 276 of the 2012 Legislative Session regarding expedited processing of licenses for military personnel who have completed a military program of training and been awarded a military occupational specialty in the area of dietetics and nutrition and to a military spouse licensed, certified or registered in another jurisdiction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Expedited processing for licensure will allow qualified military personnel and their qualified spouses to practice in Louisiana sooner than is now possible. It is anticipated that applications from non-military personnel will not be adversely affected.

General, Licensure and Certification and Practice;
Polysomnographic Technologists and Technicians
(LAC 46:XLV.241-245, 3301-3355, 6301-6313)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Polysomnographic Practice Act, R.S. 37:2861-2870, that the Louisiana State Board of Medical Examiners (Board) intends to adopt rules respecting the general regulation, licensure, certification and practice of polysomnographic technologists and technicians, Title 46, (Professional And Occupational Standards), Part XLV (Medical Professions), Subpart 1 (General) Chapter 1 (Fees and Costs), Subchapter N, §§241-245, Subpart 2 (Licensure and Certification) Chapter 33, §§3301-3355 and Subpart 3 (Practice) Chapter 63, §§6301-6313.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter N. Polysomnographic Technologists and Technicians Fees

§241. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the board's issuance of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§243. License and Permit

A. For processing an application for a license as a polysomnographic technologist a fee of \$150 shall be payable to the board.

B. For processing an application for a permit as a polysomnographic technician a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§245. Renewal

A. For processing an application for annual renewal of the license of a polysomnographic technologist a fee of \$75 shall be payable to the board.

Emily Efferson
Administrator
1309#107

Evan Brasseaux
Staff Director
Legislative Fiscal Office

B. For processing an application for renewal of the permit of a polysomnographic technician a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subpart 2. Licensure and Certification

Chapter 33. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions

§3301. Scope of Chapter

A. The rules of this Chapter provide for and govern the issuance of licenses and permits to practice polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Advisory Committee on Polysomnography or the *committee*—the committee established in R.S. 37:2864.

Applicant—an individual who has applied to the board for a license or permit to practice polysomnographic technology in the state of Louisiana.

Application—a request directed to and received by the board, in a format approved by the board, for a license or permit to practice polysomnographic technology in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted therewith.

American Academy of Sleep Medicine or *AASM*—the national organization that establishes accreditation standards for sleep centers and sleep labs.

American Board of Sleep Medicine or *ABSM*—the national organization developed for the purpose of establishing and maintaining standards for sleep disorders medicine, which also offers the Sleep Technologist Registry Examination and issues the Registered Sleep Technologist credential.

Board—the Louisiana State Board of Medical Examiners, as established in R.S. 37:1263.

Board of Registered Polysomnographic Technologists or *BRPT*—the national credentialing agency for polysomnographic technologists, or its successor organization.

Commission on Accreditation of Allied Health Education Programs or *CAAHEP*—the national agency that reviews and accredits educational programs of allied health sciences for the purpose of establishing and maintaining national standards.

Direction and Supervision of a Physician—responsible direction and control by a physician for the proper performance of polysomnographic technology. Such direction and supervision shall not be construed to require the physical presence of the supervising physician provided that the physician is immediately available to furnish assistance and direction, either in person or by telephone or by electronic means, throughout the performance of the polysomnographic procedure or service.

Direct Supervision—supervision by a physician or a qualified health care provider currently licensed by the board, whose scope of practice includes polysomnography, who is present in the area where the procedure or service is being performed and is available to furnish assistance and direction throughout the procedure or service.

Good Moral Character—as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:2867 or Chapter 63 of these rules for the denial, suspension, or revocation of a license or permit to practice polysomnographic technology;

b. the applicant has not, prior to or in connection with his or her application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License or *Licensure*—the lawful authority to engage in the practice of polysomnographic technology in this state, as evidenced by a certificate duly issued by and under the official seal of the board.

Louisiana Polysomnographic Practice Act or the *Act*—R.S. 37:2861-2870 as may be amended.

Permit—the lawful authority to engage in the practice of polysomnographic technology in the state of Louisiana for a designated period of time, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to the issuance of a license or to permit renewal except as provided in these rules.

Physician—an individual licensed by the board to practice medicine in this state as evidenced by a current license duly issued by the board.

Polysomnography—the performance of sleep diagnostics in any setting or location under the direction and supervision of a physician who has performed a comprehensive clinical evaluation and on the basis of this evaluation has ordered the sleep diagnostic study.

Polysomnographic Technician or *Technician* or *Permit Technician*—an allied health professional who possesses a current permit duly issued by the board under this Chapter to practice polysomnographic technology under the direct supervision of a physician or a qualified allied health professional currently licensed by the board whose scope of practice includes polysomnography.

Polysomnographic Technologist or *Technologist*—an allied health professional who possesses a current license to practice polysomnographic technology issued by the board to perform both diagnostic and therapeutic polysomnograms under the direction and supervision of a physician.

Polysomnographic Technology—the allied health specialty practiced under the direction and supervision of a physician involving the attended monitoring and testing of individuals suffering from any sleep disorder as classified in

the International Classification of Sleep Disorders. Such procedures include but are not limited to the following, conducted only upon the written prescription or verbal order of a physician and under his or her direction and supervision:

a. application of electrodes and apparatus necessary to monitor and evaluate sleep disturbances, including positive airway pressure on spontaneously breathing patients and the application of devices which allow a physician to diagnose sleep disorders, which disorders include sleep breathing disorders, movement disorders, disorders of excessive somnolence, and physiologic impotence;

b. institution of any type of physiologic monitoring applicable to polysomnography;

c. initiation of treatment changes and testing techniques required for the implementation of polysomnographic protocols under the supervision and direction of a physician;

d. set-up of the positive air pressure equipment in the patient's home, instructions including use of the equipment and adjustment of the settings, exclusive of delivery and directions on turning the equipment on and off;

e. education of patients and their families about their sleep disorders and monitoring their progress in treatment of such disorders; and

f. provided, however, that:

i. other than an esophageal pressure monitoring probe, polysomnographic technology does not include the application or insertion of any device or appliance that extends into the trachea or esophagus or that attaches to an artificial airway; and

ii. if invasive ventilation is used during a titration study, a respiratory therapist or a physician shall be physically present.

Supervising Physician—a qualified physician who provides direction and supervision to an individual who is licensed, or direct supervision to one who holds a permit, to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter B. Requirements and Qualifications for Licensure

§3305. Scope of Chapter

A. The rules of this Subchapter govern the qualifications and requirements prerequisite to issuance of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3307. Qualifications for Polysomnographic Technologist License

A. To be eligible for a polysomnographic technologist license on or before July 17, 2017, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character as defined by this Chapter;

3. be a high school graduate or have the equivalent of a high school diploma;

4. have a current credential as a polysomnographic technologist which is granted on the basis of written examination by one of the entities identified in §3319 of this Chapter;

5. hold current certification in basic cardiac life support or cardiopulmonary resuscitation from the American Heart Association or the American Red Cross;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States, duly issued by the Citizenship and Immigration Services of the United States, Office of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 C.F.R.);

7. satisfy the procedures and requirements for application and examination specified in Subchapters C and D of this Chapter; and

8. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

B. To be eligible for a polysomnographic technologist license after July 17, 2017, an applicant shall in addition to meeting the qualifications set forth in §3307.A:

1. be a graduate of a CAAHEP accredited education program in polysomnography; and

2. have passed a polysomnographic technology examination that is administered as a component of a certificate program approved by the board, which is accredited by the National Commission for Certifying Agencies, the American National Standards Institute or another national accrediting organization approved by the board.

C. The requirements of §3307.B apply only to new applicants after July 17, 2017. An applicant who was licensed before that date is eligible for license renewal or reinstatement based upon meeting the eligibility requirements in effect at the time the applicant's initial license was issued.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3309. Qualifications for Licensure by Reciprocity

A. The board may issue a polysomnographic technologist license to an applicant who has relocated to this state and filed an application for licensure with the board provided the applicant holds a current, unrestricted license to practice as a polysomnographic technologist duly issued by the licensing authority of another state, the District of Columbia, or a territory of the United States, and meets and satisfies all of the qualifications, procedures and requirements for licensure specified by §3307 of this Subchapter.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure on the basis of reciprocity shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such

qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter C. Application

§3311. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for a license or permit to practice polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3313. Application for License or Permit; Procedure

A. Application for license or a permit must be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for a license or a permit shall include:

1. proof documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. one recent photograph of the applicant;

3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

4. criminal background record information;

5. the name and contact information of each current employer, intended employer and supervising physician, if known;

6. payment of the applicable fee provided in Chapter 1 of these rules; and

7. such other information and documentation as the board may require.

D. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may reject or refuse to consider any application which is not complete in every detail. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3315. Effect of Application

A. The submission of an application for a license or a permit to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of polysomnographic technology, each physician or other health care practitioner whom the applicant has consulted or

seen for diagnosis or treatment and each professional organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for a license or a permit to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for a license or a permit to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the polysomnography licensing authority of any state, a national credentialing agency(s) accepted by the board for polysomnographic technologists; the Federal Drug Enforcement Agency; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter D. Examination

§3317. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure as a polysomnographic technologist in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3319. Designation of Examination

A. The examinations accepted by the board for licensing a polysomnographic technologist are the credentialing examination for certification as a registered polysomnographic technologist administered by the BRPT, the registered sleep technologist examination administered by the ABSM, or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3321. Restriction, Limitation on Examinations

A. An applicant who fails the examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and/or clinical training required for licensure

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3323. Passing Score; Reporting of Examination Score

A. An applicant will be deemed to have successfully passed an examination accepted by the board if he or she attains a score equivalent to that required by the testing organization as a passing score.

B. Applicants for licensure shall request the testing organization to notify the board of the number of examination attempts and results according to the procedures for such notification established by the organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter E. Licensure Issuance, Termination, Renewal, Reinstatement and Permits

§3325. Scope of Chapter

A. The rules of this Subchapter govern the issuance, expiration, renewal and reinstatement of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3327. Issuance of Licensure

A. If the qualifications, requirements, and procedures prescribed or incorporated by this Chapter are met to the satisfaction of the board, the board shall license the applicant to engage in the practice of polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3329. Expiration of License

A. A license, but not a permit, issued by the board under this Chapter shall expire and thereby become null, void and to no effect each year on the last day of the month in which the licensee was born.

B. A permit is not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3331. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format specified by the board;
2. evidence of current certification as a registered polysomnographic technologist by the BRPT or registered sleep technologist by the ABSM, or certification or registration by such other organization as the board may subsequently approve;
3. evidence of current certification in basic cardiac life support or cardiopulmonary resuscitation from the American Heart Association or the American Red Cross;
4. documentation of not less than ten hours of approved continuing professional education within the past twelve months as prescribed by Subchapter G of these rules;
5. the renewal fee prescribed in Chapter 1 of these rules;
6. the name and contact information of each current employer and supervising physician; and
7. such other information or documentation as the board may require.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3333. Reinstatement of License

A. A license which is expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made in a format specified by the board and be accompanied by:

1. a biographical affidavit in a format provided by the board;
2. a recent photograph of the applicant;
3. evidence of current certification as a polysomnographic technologist by the BRPT or as a sleep technologist by the ABSM or such other certifying entity as the board may subsequently approve;
4. evidence of current certification in basic cardiac life support or cardiopulmonary resuscitation from the American Heart Association or the American Red Cross;
5. proof of ten hours of approved continuing professional education for each year that the license has lapsed or expired, as set forth in Subchapter G of this Chapter;
6. such other information and documentation as the board may require to evidence qualification for licensure; and
7. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

- a. if the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee;
- b. if the application for reinstatement is made more than two years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

C. An applicant who has not been licensed to practice as a polysomnographic technologist or engaged in such practice in any state for more than five years immediately prior to the date of the application shall, within such five year period,

have been re-credentialed by the successful passage of the examination required for initial licensure, or the examination for re-certification, in accordance with requirements for examination specified in Subchapter D of this Chapter, including but not limited to the restriction and limitation on examinations set forth in §3321 of these rules. Such an applicant shall not be required to furnish evidence of continuing professional education as otherwise required by §3333.B.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for an original license may be refused by the board as specified in R.S. 37:2867 or in Chapter 63 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3335. Polysomnographic Technician Permit

A. The board may issue a polysomnographic technician permit to an individual who has made application to the board for such permit. To be eligible for a polysomnographic technician permit an applicant shall:

1. meet and satisfy all of the qualifications, procedures and requirements for licensure specified by §3307.A.1-6 of this Chapter, save for current certification as a registered polysomnographic technologist by the BRPT or registered sleep technologist by the ABSM on the basis of written examination;

2. have:

a. passed the (entry-level) certification examination offered by the BRPT; or

b. completed an accredited CAAHEP education program in polysomnography;

3. satisfy the procedures and requirements for application specified in Subchapter C of this Chapter; and

4. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

B. Permit Term. A permit issued under this Section shall be effective for twelve months and shall expire and become null and void on the earlier:

1. twelve months from the date of issuance; or

2. the date on which the applicant meets and satisfies the qualifications, procedures and requirements of §3307 of this Chapter.

C. Renewal. A permit issued under this Section shall not be renewed beyond its original term unless the applicant failed to take or failed to pass the BRPT or ABSM examination with the original permit term. A permit that is renewed under this Section shall be effective for twelve months and shall expire and become null and void on the earlier of:

a. twelve months from the date of issuance; or

b. the date on which the applicant meets and satisfies the qualifications, procedures and requirements of §3307 of this Chapter.

D. A permit that is renewed under §3335C. of this Section is not renewable. Exceptions may be made at the sole discretion of the board upon a request submitted in writing at least thirty days prior to the expiration of the permit, identifying a life-threatening or another significant medical condition or other extenuating circumstance deemed

acceptable to the board. The maximum term of any such exception shall not exceed 12 months and its issuance may be conditioned upon any terms that the board may deem appropriate.

E. The burden of satisfying the board as to the qualifications and eligibility of the applicant for a permit shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3337. Reserved.

Subchapter F. Advisory Committee on Polysomnography

§3339. Organization and Authority

A. The Advisory Committee on Polysomnography (the "committee"), as established, appointed and organized pursuant to R.S. 37:2864 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded to it by the Act;

2. function and meet as prescribed by the Act;

3. upon request, assist the board in examining the qualifications and credentials of applicants for polysomnographic technology licensure and make recommendations thereon to the board;

4. monitor and report to the board on the status and development of CAAHEP accredited polysomnography training programs in this state;

5. advise the board on issues affecting the licensing and regulation of polysomnographic technology in this state;

6. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules, regulations and policies respecting polysomnography licensure and practice;

7. serve as a liaison between and among the board, individuals engaged in the practice of polysomnographic technology in this state and professional organizations;

8. perform such other functions and provide such additional advice and recommendations as may be requested by the board;

9. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by this Subchapter G of this Chapter, including the authority and responsibility to:

a. provide recommendations to the board on approval of any additional organizations or entities as sponsors of qualifying continuing professional education programs pursuant to §3347.B of these rules;

b. request and obtain from continuing professional education sponsoring organizations any information necessary to properly evaluate and make informed recommendations to the board relative to the appropriateness of the educational program;

c. request and obtain from applicants for renewal of licensure referred by the board, such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide

recommendations for which the committee is responsible; and

10. receive reimbursement for travel expenses incurred during attendance at committee meetings and for other expenses when specifically authorized by the board.

C. In discharging the functions authorized under this Section the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members relative to individual applicants, licensees or permit holders pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter G. Continuing Professional Education

§3341. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for the annual renewal or reinstatement of licensure as a polysomnographic technologist and prescribe the procedures applicable to satisfaction and documentation thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3343. Continuing Professional Education Requirement

A. Subject to the exceptions and waiver specified in this Subchapter, to be eligible for the renewal of a polysomnographic technologist license an applicant shall, within each year that he or she holds a license, evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of continuing education credits ("CEC") sanctioned by the organizations identified in this Subchapter, or their successors.

B. To be eligible for the reinstatement of a polysomnographic technologist license an applicant shall evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of approved CEC for each year that the license has lapsed or expired.

C. For purposes of this Section, one CEC is the equivalent to 1 hour of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3345. Qualifying Continuing Professional Education

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of polysomnographic technology;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of polysomnographic technology;

3. be presented by individuals whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation. Copies of credentials shall be available to the committee or the board upon request;

4. provide a system or method for verification of attendance or course completion;

5. be a minimum of one continuous hour in length;

6. allow participants an opportunity to ask questions on the content presented; and

7. include assessment and evaluation mechanisms to insure that participants have achieved a specified level of performance and to provide for evaluation of instructional methods, facilities and resources used.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing education credits under these rules:

1. any program not meeting the standards prescribed by this Section;

2. any independent/home study, correspondence, on-line, lecture, workshop, program or seminar that is not approved or sponsored by the AASM, the American Association of Sleep Technologists (AASST) or the American Association of Respiratory Care (AARC);

3. holding office in professional or governmental organizations, agencies, or committees;

4. participation in case conferences, informal presentations, or in-service activities;

5. giving or authorizing verbal or written presentations, seminars, articles, or grant applications;

6. certification in basic cardiac life support or cardiopulmonary resuscitation; and

7. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3347. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3345.A of this Subchapter shall be deemed approved for purposes of satisfying the continuing education requirement under this Subchapter, if sponsored or offered by the AASM, AASST, BRPT or the AARC.

B. Upon the recommendation of the committee or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as approved continuing education under §3345 or §3347 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3349. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing education requirement prescribed by these rules shall accompany a polysomnographic technologist's renewal application in a format specified by the board.

B. A polysomnographic technologist shall maintain a record of certification and satisfaction of attendance for at least five years from the date of completion of the continuing professional education program.

C. The board shall randomly select for audit no fewer than three percent of licensees each year for an audit of continuing education activities. In addition, the board may audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, may be referred to the committee for its evaluation and recommendations.

E. If the committee or the board determines that a continuing professional education program or activity certified by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of continuing education credits claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the recommendation by written request delivered to the board within ten days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3351. Failure to Satisfy Continuing Professional Education Requirement

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement prescribed by this Subchapter shall be given written notice of such failure by the board, mailed to the applicant's mailing address on file with the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing professional education requirement;
2. the applicant is exempt from such requirement pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirement was occasioned by disability, illness, or other good cause as may be determined by the board.

B. Any licensee or applicant who falsely certifies attendance and/or completion of the required continuing professional education requirement will be subject to disciplinary action by the board.

C. The license of a polysomnographic technologist which has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirement of these rules may be reinstated by the board upon the applicant's satisfaction of the requirements and procedures for reinstatement of licensure, set forth in §3333 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3353. Exceptions to Continuing Professional Education Requirement

A. The continuing professional education requirement prescribed by this Subchapter for renewal of licensure shall not be applicable to a polysomnographic technologist:

1. employed exclusively by, or at an institution operated by the United States Government; or

2. who has within the twelve months prior to the date of renewal, been credentialed or re-credentialed as a polysomnographic technologist on the basis of examination as specified in §3319 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§3355. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a polysomnographic technologist who makes a written request for such waiver to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirement. Any licensed polysomnographic technologist submitting a continuing professional education waiver request is required to do so on or before the date specified by this Chapter for the renewal of the licensee's license. Any request received by the board past the date for licensure renewal will not be considered for waiver but, rather, in accordance with the provisions of §3351 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subpart 3. Practice

Chapter 63. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions

§6301. Scope of Chapter

A. The rules of this Chapter govern the practice of polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

§6303. General Definitions

A. The definitions set forth in Chapter 33 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter B. Unauthorized Practice, Exemptions, and Designation of License or Permit

§6305. Unauthorized Practice

A. No individual shall engage or attempt to engage in the practice of polysomnographic technology in this state, unless he or she holds a current license or a permit to practice polysomnographic technology issued by the board under Chapter 33 of these rules.

B. An individual who does not hold a current polysomnographic technologist license issued by the board, and or whose license has been suspended or revoked, shall not use in conjunction with his or her name the words "Licensed Polysomnographic Technologist," "LPSGT," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technologist or that the services provided by such individual constitute polysomnographic technology.

C. An individual who does not hold a current polysomnographic technician permit issued by the board, or whose permit has been suspended or revoked, shall not use in conjunction with his or her name the words "Polysomnographic Technician," "Permit Technician," or "PSGT-E," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technician or that the services provided by such individual constitute polysomnographic technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 39:

§6307. Exemptions

A. The prohibitions of §6305A of this Chapter shall not apply to an individual:

1. acting under and within a license issued by any licensing agency of the state of Louisiana, whose scope of practice includes polysomnography;

2. employed as a polysomnographic technologist by the United States Government when acting exclusively within the course and scope of such employment;

3. currently licensed by the board to practice respiratory therapy; or

4. pursuing a course of study in a CAAHEP accredited polysomnographic technology education program from performing a polysomnography procedure or service, provided:

a. the polysomnographic procedure or service is within the individual's course of study; and

b. the polysomnographic procedure or service is performed under the direct supervision of a physician or a qualified allied health professional currently licensed by the board whose scope of practice includes polysomnography.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 39:

§6309. Designation of License or Permit

A. Every polysomnographic technologist and polysomnographic technician shall wear an identification

badge when engaged in the practice of polysomnographic technology. The identification badge shall be clearly visible at all times and shall bear the first name or initial, the full surname and the term reflecting the individual's level of licensure.

B. A polysomnographic technologist may use the words "Polysomnographic Technologist" or "Licensed Polysomnographic Technologist" or the letters "PSGT" or "LPSGT" in connection with his or her name to denote his or her license.

C. A polysomnographic technician may use the words "Polysomnographic Technician" "Permit Technician" or the letters "PSGT-E" in connection with his or her name to denote his or her permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 39:

Subchapter C. Mutual Obligations

§6311. Mutual Obligations and Responsibilities

A. A supervising physician, polysomnographic technologist and polysomnographic technician shall bear equal and reciprocal obligations to:

1. comply with reasonable requests by the board for personal appearances, information and documentation relative to the functions, activities, and performance of polysomnographic technology by a polysomnographic technologist, polysomnographic technician and/or supervising physician;

2. insure that each individual to whom a polysomnographic technologist or polysomnographic technician provides polysomnography procedures or services is expressly advised and understands that a polysomnographic technologist or polysomnographic technician is not a physician;

3. insure that all procedures or services performed by a polysomnographic technologist or a polysomnographic technician are properly documented in the patient's record and accurately reflect the services rendered. These entries shall contain, at a minimum:

a. an intake record;

b. the reasons for the visit;

c. the name of the polysomnographic technologist or polysomnographic technician who provides the services;

d. the name of the supervising physician for the services;

e. a summary of any verbal orders taken by polysomnographic technologist or polysomnographic technician; and

f. polysomnography observation notes on each service provided.

B. The polysomnographic technologist, polysomnographic technician, and their supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter, and to immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Subchapter D. Grounds for Administrative Action

§6313. Causes for Disciplinary Action

A. The board may refuse to issue, renew or reinstate, or may suspend, revoke, or impose probationary conditions and restrictions on the holder of any license or permit to practice polysomnographic technology in this state or on an applicant, if the applicant, licensee or permit holder has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

B. As used herein and in R.S. 37:2867.A, "unprofessional conduct" by an applicant, licensee or holder of a permit to practice polysomnographic technology in this state shall mean and include, but not be limited to:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a misdemeanor under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered, arising out of the practice of polysomnographic technology;

3. fraud, deceit, misrepresentation, or concealment of material facts in procuring or attempting to procure a license or permit to engage in the practice of polysomnographic technology;

4. providing false testimony before the board or providing false sworn information to the board;

5. the habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. cognitive or clinical incompetency;

7. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of the practice of polysomnographic technology in this state;

8. interdiction by due process of law;

9. failing to successfully complete the continuing professional education requirement for polysomnographic technology as provided in Chapter 33, Subchapter G of these rules;

10. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

11. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

12. knowingly performing any act which in any way assists an individual who does not hold a license or permit to practice polysomnographic technology in this state to engage in the practice of polysomnographic technology, or having a professional connection with or lending one's name to an illegal practitioner;

13. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to a sleep center, laboratory or other entity for polysomnographic technology services or procedures;

14. inability to practice polysomnographic technology with reasonable competence, skill or safety to patients

because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

15. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the physical and/or mental fitness and ability of an applicant, licensee or permit holder to practice polysomnographic technology with reasonable skill or safety;

16. failure to respond or to provide information or items within the time requested by the board's staff, or to respond to a subpoena issued by the board, or to complete an evaluation within the time designated by the board;

17. practicing polysomnographic technology other than on the written prescription or verbal order of a physician and under his or her direction or supervision, or performing, attempting to perform, or permitting anyone else to perform any procedure not authorized by licensure or permit;

18. intentional violation of any federal or state law, parish or municipal ordinance, the state sanitary code, or rule or regulation relative to any contagious or infectious disease;

19. violation of the code of ethics adopted and published by the BRPT;

20. the refusal of the licensing authority of another state to issue or renew a license or permit to practice polysomnographic technology in that state, or the revocation, suspension, or other restriction imposed on a license or permit issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license or permit issued by another state when criminal or administrative charges are pending or threatened against the holder of such license or permit;

21. violating or helping someone else violate any rule and regulation of the board, or any provision of the Act, as may be amended, R.S. 37:2861-2870.

C. A license or permit that has been suspended by the board shall be subject to expiration during suspension.

D. The denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon the holder of a license or permit, or an applicant, may be entered into by consent of the individual and the board, or may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act, R.S. 49:951 et seq., and the applicable rules and regulations of the board.

E. The board may reinstate any license or permit suspended or revoked hereunder, or restore to unrestricted status any license or permit subject to probationary conditions or restrictions by the board upon payment, if applicable, of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board; provided, however, an application for reinstatement of a license that has been revoked by the board shall not be made or considered by the board prior to the expiration of one year following the date on which the board's order of revocation became final. The board shall have discretion to accept or reject such an application but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed Rules on the family has been considered. It is not anticipated that the proposed Rules will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed Rules on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed Rules will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rules to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 21, 2013.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: General, Licensure and Certification and Practice; Polysomnographic Technologists and Technicians

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board of Medical Examiners (Board) estimates expenses in the amount of \$12,784 in FY 14, \$13,277 in FY 15 and \$13,789 in FY 16 in connection with the licensure and regulation of polysomnographic technologists and technicians, as mandated by the Louisiana Polysomnographic Practice Act, R.S. 37:2861-2870, which was substantially amended by Act 678 of the 2012 session of the Louisiana Legislature. It is also estimated that implementation of the proposed rules will result in a one time expenditure of \$2,214 in FY 14 for printing costs of the Notice of Intent and final Rule, resulting in a total expenditure of approximately \$14,998 in FY14. The proposed rules codify existing practices with regard to general licensure and regulation of polysomnographic technologists and technicians.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In the proposed rules, the Board codifies existing agency fees for the issuance of polysomnographic technologist licenses and technician permits of \$150 and \$100, respectively and for license/permit renewal of \$75 (technologist) and \$50 (technician). The Board anticipates that 125 technologist

licenses and 3 technician permits will be renewed in the current fiscal year. Fifteen (15) new applicants for technologist licenses and 5 for technician permits are also anticipated in the current fiscal year and in subsequent years. Accordingly, the anticipated agency revenue resulting from the licensing and permitting of polysomnographic technologists and technicians is \$12,275 for FY 2014.

New technologists	15 x \$150 = \$ 2,250
New technicians	5 x \$100 = \$ 500
Renewal technologist	125 x \$ 75 = \$ 9,375
Renewal technician	3 x \$ 50 = \$ 150
Total	\$12,275

Considering a projected growth of 15 new polysomnographic technologists in each fiscal year, the projected revenue growth from renewals will grow by approximately \$1,125 annually (15 renewals x \$75 = \$1,125).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In conformity with Act 678 of the 2012 session of the Louisiana Legislature, which substantially amended the Louisiana Polysomnographic Act, R.S. 37:2861-2870, the Board proposes to adopt Rules providing for the general regulation, licensure, certification and practice of polysomnographic technologists and technicians. Aside from an application form supplied by the Board for initial issuance or renewal of a license or permit, and payment of the applicable fee, it is not anticipated that the proposed Rules will have any material effect on costs, paperwork or workload of polysomnographic technologists or technicians or any adverse costs and/or economic impact on applicants, licensees or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rules are not anticipated to have an impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.
Executive Director
1309#098

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Physician Practice; Collaborative Drug Therapy Management (LAC 46:XLV.Chapter 74)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, that the Louisiana State Board of Medical Examiners (Board) intends to amend its rules governing physician collaborative drug therapy management, LAC 46XLV.7403 et seq. The proposed amendments simplify physician record filing and keeping requirements, reduce the administrative burdens placed on physicians who are engaged in CDTM, update the rules generally and streamline the collaborative relationship in order to facilitate physician utilization of a pharmacist to carry out their orders for drug therapy management of their patients.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 74. Collaborative Drug Therapy Management

Subchapter A. General Provisions

§7403. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

* * *

Collaborative Drug Therapy Advisory Committee or Advisory Committee—the Louisiana State Board of Medical Examiners' Collaborative Drug Therapy Advisory Committee, as constituted under §7417 of this Chapter.

Collaborative Drug Therapy Management or Drug Therapy Management—that practice in which a pharmacist voluntarily agrees with a physician to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a patient specific written order set. Drug therapy management shall be limited to:

a. - c. ...

d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under an order set, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis; and

e. providing disease or condition specific patient education and counseling.

* * *

Disease Specific Drug Therapy—a specific drug(s) prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for the treatment of the disease or condition.

* * *

Order Set—a written set of directives or instructions containing each of the components specified by §7429 of this Chapter for collaborative drug therapy management of disease specific drug therapy for a specific patient. The order set shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

Pharmacist—for purposes of this Chapter an individual who has a current, unrestricted license to practice pharmacy in this state duly issued by the Louisiana Board of Pharmacy, who is approved by the Louisiana Board of Pharmacy to engage in collaborative practice for a specific disease or condition based on the pharmacist's training and experience.

* * *

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his/her patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1639 (August 2007), amended LR 39:

Subchapter C. Registration

§7407. Eligibility for Registration

A. - A.1. ...

2. be actively engaged in the clinical practice of medicine and the provision of patient care in this state in the particular field of medicine in which collaborative drug therapy management is to take place; and

3. not be employed by or serve as an independent contractor to a pharmacist, pharmacy, or pharmaceutical company, or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, the exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law or the board's rules on the physician.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), amended LR 39:

§7409. Registration Procedure

A. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), amended LR 39:

§7411. Original Application; Issuance of Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), repealed LR 39:

§7413. Notice of Intent to Collaborate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), repealed LR 39:

§7415. Expiration of Registration; Renewal

A. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a physician's medical license unless renewed by a physician by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a physician's renewal application for medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), amended LR 39:

Subchapter D. Collaborative Drug Therapy Advisory Committee

§7419. Composition; Appointment

A. - B. ...

C. Each member of the advisory committee shall be appointed by the board from among a list of one or more qualified nominees for each position submitted to the board. Accompanying each nominee shall be a personal resume or curriculum vitae for the individual. In the event a designating entity does not submit nominees within 90 days of the board's request the position or vacancy may be filled by a physician or pharmacist designated by the board. Each member of the advisory committee shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment. With the exception of the member designated by the Louisiana Board of Pharmacy, who shall serve at the pleasure of that board, all members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the month following the date of appointment.

D. The advisory committee shall meet not less than once each calendar year, or more frequently as may be deemed necessary or appropriate by a quorum of the advisory committee or by the board. The presence of four members shall constitute a quorum. The advisory committee shall elect from among its members a chairperson, a vice-chairperson and a secretary. The chair or in the absence or unavailability of the chair the vice-chair, shall call, designate the date, time and place of, and preside at meetings of the advisory committee. The secretary shall record or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), amended LR 39:

§7421. Duties and Responsibilities

A. The advisory committee is authorized by the board to assist by:

1. providing advice and recommendations to the board respecting the modification, amendment, and supplementation of its rules concerning physicians who engage in collaborative drug therapy management;

2. serving as a liaison between and among the board, physicians and pharmacists who engage in collaborative drug therapy management; and

3. identifying and recommending to the board acceptable certificate programs and other advanced training or programs in the areas of practice covered by collaborative drug therapy management.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007), amended LR 39:

Subchapter E. Standards of Practice

§7423. Authority, Responsibility and Limitations of Collaborative Drug Therapy Management

A. A physician may only engage in collaborative drug therapy management with a pharmacist in accordance with a patient specific, drug specific, disease or condition specific order set satisfying the requirements of §7429 of this Chapter.

B. A physician engaged in collaborative drug therapy management shall:

1. ...

2. establish and maintain a physician-patient relationship with each patient subject to the collaborative drug therapy management;

3. be geographically located so that the physician, or a back-up physician, is able to be physically present daily to provide medical care to a patient subject to collaborative drug therapy management;

4. receive on a scheduled basis no less than every three months, a status report on the patient including, but not limited to any problem, complication or other issues relating to patient non-compliance with drug therapy management. This requirement may be met by entering the information in the patient's medical record; and

5. ...

C. A physician shall not engage in collaborative drug therapy management with a non-pharmacist or with any pharmacist who is not approved by the Louisiana State Board of Pharmacy to engage in collaborative practice for the specific disease or condition subject to collaboration, based on the pharmacist's training and experience.

D. Collaborative drug therapy management shall only be utilized for *Disease Specific Drug Therapy* as defined in §7403 of this Chapter.

E. The scope of the collaborative drug therapy management shall not include:

1. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease or condition specific order set based on a face-to-face visit with the patient;

2. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the order set;

3. the management of controlled substances or drugs of concern; or

4. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007), amended LR 39:

§7425. Informed Consent

A. - B.3. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007), amended LR 39:

§7427. Collaborative Drug Therapy Management Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007), repealed LR 39:

§7429. Order Sets

A. An order set shall be utilized for each patient to be managed by collaborative drug therapy management. The order set shall incorporate whatever patient specific variations the physician may deem necessary and shall adhere to generally accepted standards of care. A copy of the order set shall be:

1. provided to the collaborating pharmacist; and
2. made part of the patient's medical record.

B. The order set shall identify, at a minimum:

1. - 11. ...

C. Every order set utilized for collaborative drug therapy management of a patient shall be reviewed annually by the physician, or more frequently as such physician deems necessary, to address patient needs and to insure compliance with the requirements of this Chapter. The physician's signature and date of review shall be noted on the order set and maintained by the physician in accordance with Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007), amended LR 39:

§7431. Administration of Vaccines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007), repealed LR 39:

§7433. Additional Refills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), repealed LR 39:

§7435. Reporting Obligations and Responsibilities

A. A physician engaged in collaborative drug therapy management shall:

1. annually report, as a condition to the renewal of that physician's license, whether or not and the extent to which the physician is engaged in collaborative drug therapy management and such other information as the board may request; and

2. within 15 days of the occurrence or discovery notify the board in writing of complications or errors that are, in the physician's opinion, directly related to drug therapy mismanagement; and

3. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of a physician or pharmacist engaged in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), amended LR 39:

§7437. Records

A. Included in the medical record on a patient subject to collaborative drug therapy management shall be a copy of:

1. the prescription or order implementing drug therapy management and any subsequent orders or order sets modifying the therapy;
2. documentation of physician annual review, as well as the quarterly periodic reports required by §7423B.4 of this Chapter;
3. - 5. ...

B. A physician engaged in drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a list of all patients subject to collaborative drug therapy management, a copy of any order sets and such other records or documentation as may be requested by the board to assess a physician's compliance with the requirements of this Chapter, the Act or other applicable rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), amended LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 21, 2013.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Physician Practice;
Collaborative Drug Therapy Management**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule changes streamline the collaborative relationship between physicians and pharmacists to reduce the administrative burden placed on physicians engaged in Collaborative Drug Therapy Management. The estimated costs to implement the proposed Rule amendments are \$2,077 in FY 14 for printing costs of the Notice of Intent and the final Rule amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule amendments are projected to have no impact on state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule amendments may result in a reduction of the administrative burden of physicians engaged in collaborative drug therapy management activities through a reduction of documentation requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule amendments will not have any impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.
Executive Director
1309#058

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Social Work Examiners**

General Requirements
(LAC 46:XXV.117, 119, 307, 315,
319, 703, 705, 905, 907, and 911)

Editor's Note: The following Notice of Intent is being repromulgated to correct submission errors. The original Notice can be viewed in its entirety in the July 20, 2013 *Louisiana Register* on pages 2073-2077.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2705.C.1, that the Louisiana state Board of Social Work Examiners intends to promulgate rules that require social workers to report arrests or charges within seven days of the incident; and to report diagnosis of substance abuse/dependency and/or inpatient mental health treatment to the board within seven days of the occurrence. The board also intends to promulgate a rule that requires social workers to report a change of address within ten business days. In response to Act 276 of the 2012 Legislative Session, the board intends to promulgate a rule regarding the expedited licensing of military personnel and the spouses of military personnel. Proposed changes to §§307, 315 and 319 are to address current practices and the current name of the examinations accepted by the board. The board proposes revising 703 and 705 to clarify the intention and purpose of the Impaired Professional Program, as well

as address the retention of IPP files. The board intends on revising §§905, 907, and 911 in response to Act 625 of the 2012 Legislative Session which exempted the board from the limitations of R.S. 37:21.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXV. Credentialed Social Workers

Chapter 1. Standards of Practice

§117. Conduct

A. - D. ...

E. A social worker shall notify the Louisiana state Board of Social Work Examiners within seven business days of any arrests or charges, to include DWI and DUI, regardless of final disposition. Minor traffic offenses such as speeding and parking tickets do not need to be reported.

F. A social worker shall notify the Louisiana state Board of Social Work Examiners within seven business days of any diagnosis of substance abuse/dependency or any treatment for mood-altering substance, drugs or alcohol, or prescription medication. A social worker shall notify the board within seven business days of any condition requiring inpatient mental health treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000), amended LR 29:2382 (November 2003), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§119. Representation to the Public

A. - D. ...

E. Mailing Address. A social worker shall file a change of address with the board within 10 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

Chapter 3. General Provisions

**§305. Qualifications for Registration, Certification,
Licensure**

A. - D.6. ...

E. Licensing of Qualified Military-trained Applicants and Spouses of Military Personnel

1. A military-trained social worker is eligible for registration, certification or licensure as an RSW, LMSW, CSW or LCSW (applicable social work credential) as provided for in Subsections A-D of this Section provided the applicant:

a. has completed a military program of training in social work and has been awarded a military occupational specialty or similar official designation as a social worker with qualifications which are substantially equivalent to or exceed the requirements of the applicable social work credential which is the subject of the application;

b. has performed social work services in active practice at a level that is substantially equivalent to or exceeds the requirements of the applicable social work credential which is the subject of the application;

c. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal,

suspension, or revocation of a license to practice social work in this state at the time the act was committed; and

d. has not received a dishonorable discharge from military service.

2. A military-trained social worker, who has not been awarded a military occupational specialty or other official designation as a social worker, who nevertheless holds a current license, certification or registration for the practice of social work from another jurisdiction, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the applicable social work credential for which he or she is applying, is eligible for licensure, certification or registration by reciprocity or endorsement pursuant to §319 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed; and

b. has not received a dishonorable discharge from military service.

3. A spouse of a member of the active-duty military forces or a spouse of a former member of the military forces who has not received a dishonorable discharge and who holds a current license, certification or registration for the practice of social work from another jurisdiction, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the applicable social work credential for which he or she is applying, is eligible for licensure, certification or registration by reciprocity or endorsement pursuant to §319 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed; and

b. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

4. The procedures governing the applications of military-trained applicants and applicants who are spouses of military personnel, including the issuance and duration of temporary practice permits and priority processing of applications, are provided for in Subsection §309 R.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2383 (November 2003), LR 34:1401 (July 2008), LR 37:2616 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§307. Administration of Examination

A. - A.2. ...

3. Examination Pass Point. The board shall administer and grade a written examination or employ a national recognized testing firm to do the same. Whichever method is used, the board will consistently strive to improve reciprocity with other states having licensure comparable to Louisiana. A pass score of 70 will be used to grade the examination for the licensed clinical social worker and the licensed master social worker.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), repromulgated LR 29:2383 (November 2003), amended LR 37:2616 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§309. Application Procedure

A. - Q.2. ...

R. Procedures for Applications of Military-trained Applicants or Spouses of Military Personnel, Issuance of Temporary Practice Permits and Priority Processing of Applications

1. In addition to the application procedures otherwise required by this Section, a military-trained social worker, as specified in §305.E.1, applying for registration, certification or licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the official military document showing the award of a military occupational specialty in social work and a transcript of all military course work, training and examinations in the field of social work;

c. documentation showing the applicant's performance of social work services, including dates of service in active practice, at a level which is substantially equivalent to or exceeds the requirements of the social work credential which is the subject of the application;

d. for applicants seeking LCSW licensure, documentation showing the accumulated supervised experience in social work practice or out-of-state accumulated social work employment as specified by §309.J and K;

e. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed.

2. In addition to the application procedures otherwise required by this Rule, a military-trained social worker, as specified in §305.E.2, applying for registration, certification or licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the completion of all forms and presentation of all documentation required for an application pursuant to §319;

c. for applicants seeking LCSW licensure, documentation showing the accumulated supervised experience in social work practice or out-of-state accumulated social work employment as specified by §309.J and K;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed.

3. In addition to the application procedures otherwise required by this Rule, a spouse of a member of the active-duty military forces or a spouse of a former member of the military forces as specified in §305.E.3, applying for

registration, certification or licensure, shall submit with the application:

a. a copy of the current military orders of the military spouse of the applicant and the applicant's military identification card or a copy of the military report of transfer or discharge of the military spouse of the applicant which shows an honorable discharge from military service;

b. a copy of the applicant's marriage license and an affidavit from the applicant certifying that he or she is still married to a military spouse or former military spouse;

c. the completion of all forms and presentation of all documentation required for an application pursuant to §319;

d. for applicants seeking LCSW licensure, documentation showing the accumulated supervised experience in social work practice or out-of-state accumulated social work employment as specified by §309.J and K;

e. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed and is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

f. documentation demonstrating competency in social work practice at the level which is the subject of the application and/or completion of appropriate continuing education units;

4. Applicants who present completed applications and the supporting documentation required by this Rule are eligible for a temporary social work practice permit at the level of the applicable social work credential which is the subject of the application. The board, through its staff, will give priority processing to such applications and, subject to verification of applications and supporting documentation, issue the appropriate temporary practice permit not later than 21 days after the completed application is submitted. The temporary social work practice permit authorizes the applicant to practice social work at the designated level of the social work credential, consistent with the verified application and supporting documentation for a period of 90 days from the date of issuance.

5. As soon as practicable, but not longer than the duration of the applicant's temporary social work practice permit, the board will grant the application for the applicable social work credential which is the subject of the application or notify the applicant of its denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003), LR 34:1402 (July 2008), LR 37:2617 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§315. Board Members

A. - B. ...

C. Meetings

1. The board shall schedule meetings for the following calendar year during the last quarter of the current year.

2. A schedule of meeting dates shall be published.

C.3. - D.4. ...

E. Vacancies. The board shall notify all social workers and professional social work organizations of vacancies on the board, the qualifications required to serve, and the process for nominations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2385 (November 2003), LR 34:248 (February 2008), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§319. Reciprocity and Endorsement

A. - C.2. ...

3. The applicant has passed the examination of the Association of Social Work Boards, or equivalent examination, in order to secure current social work license or certification in the state of Louisiana. The applicant shall request that the ASWB forward the official score report to the Louisiana board.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:306 (February 2000), amended LR 34:249 (February 2008), LR 37:2619 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

Chapter 5. Minimum Supervision Requirements

§503. LMSWs Seeking the LCSW Credential

A. - R. ...

S. The supervision agreement/plan of supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor. The supervisee and supervisor will be mailed a letter confirming board approval of the supervision agreement/plan of supervision, as well as the beginning date of supervision credit.

T. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

Chapter 7. Impaired Professional Program Authority

§703. Purpose

A. The goal of the Social Work Impaired Professional Program is to provide for public protection through monitoring and a remediative course of action applicable to social workers who are physically or mentally impaired due to mental illness or addiction to drugs or alcohol. Impairments include, but are not limited to mental, physical, and addictive disorders or other conditions. The program also supports recovery through preventive measures and allows entrance into the program before harm occurs.

B. A social worker who meets the requirements of R.S. 37:2706, 2707, 2708, or 2724 may enter the program subsequent to self-disclosure of impairment via an initial or renewal application for a credential. Entrance into the program may also occur by determination of the board, following involuntary disclosure of impairment in accordance with R.S. 37:2717(A)(2) or R.S. 37:2717(B)(4),

or by other circumstances deemed appropriate by the board. Participation in the program may hence be required as a prerequisite to continued social work practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A social worker who enters the program may be allowed to maintain his/her social work credential while in compliance with the requirements of their program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 34:249 (February 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§705. Program Implementation

A. - A.14. ...

B. The records of the IPP, including participation agreements and all information concerning participants, including assessments, evaluations, physical, mental or substance abuse evaluations and/or therapy and treatment records, monitoring logs, substance abuse/drug screens, attendance logs and any other information received by the IPP in connection with a social worker's participation in the program are within the custody and control the Louisiana state Board of Social Work Examiners. Consistent with §705.A.14, such records shall be maintained by the board on a confidential basis during the term of the social worker's participation agreement and thereafter retained by the board for a period of not less than five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

Chapter 9. Procedural Rules

§905. Investigation Procedures

A. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003), amended LR 34:1405 (July 2008), LR 37:2621 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§907. Disposition of Investigation

A. - C. ...

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these rules and regulations, or ethical standards for any form of disciplinary action as specified in R.S. 37:2717, then the administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court

records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the board's administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in §909.B of these rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the board's administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The board's administrator is authorized to extend the time for the submission of the draft of the administrative complaint for a reasonable time as requested by the assistant attorney general.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003), amended LR 37:2621 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

§911. Notice of Administrative Complaint and Hearing Scheduling

A. Upon the docketing of the administrative complaint, the board should schedule the complaint for a hearing before a hearing panel of the board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 39:

Family Impact Statement

The proposed changes have no anticipated adverse impact on the family.

Poverty Impact Statement

The proposed rulemaking will have no impact as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to Emily Efferson, Administrator, by mail at 18550 Highland Road, Suite B, Baton Rouge, LA 70809, email at emily@labswe.org or fax at (225) 756-3472. Written comments will be accepted until 4:30 p.m. on October 10, 2013.

Emily Efferson
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: General Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to the Louisiana State Board of Social Work Examiners (LABSWE) to publish the Notice of Intent is \$1,500. The estimated cost to upload the new rules to the website is \$100. All implementation expenditures will be made in FY 13-14. Since the LABSWE anticipates only 1 to 2 expedited licensure application processing requests annually from military personnel or spouses, any workload increases are minimal and will be absorbed by current staff and resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed changes will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes have no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. LABSWE proposes to add Sub Part E "Licensing of Qualified Military-trained Applicants and Spouses of Military Personnel" to Section 305 in response to mandates relative to Act 276 of the 2012 Legislative Session regarding expedited processing of licenses for military personnel who have completed a military program of training and been awarded a military occupational specialty in the area of social work and to a military spouse licensed, certified or registered in another jurisdiction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Expedited processing for licensure will allow qualified military personnel and their qualified spouse to practice in Louisiana sooner than is now possible. It is anticipated that applications from non-military personnel will not be adversely affected.

Emily Efferson
Administrator
1309#106

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Disproportionate Share Hospital Payments
Low Income and Needy Care Collaboration
(LAC 50:V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and to adopt §2713 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department amended the provisions governing disproportionate share hospital

payments to provide for a supplemental payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the provisions of the January 20, 2010 Emergency Rule to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2503. Disproportionate Share Hospital Qualifications

A. - A.5. ...

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.;

7. effective January 20, 2010, be a hospital participating in the Low Income and Needy Care Collaboration as defined in §2713.A.; and

8. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 27. Qualifying Hospitals

§2713. Low Income and Needy Care Collaboration

A. Definitions

Low Income and Needy Care Collaboration Agreement—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

B. In order to qualify under this DSH category in any period, a hospital must be party to a Low Income and Needy Care Collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

K. Effective for dates of service on or after January 1, 2011, all parties that participate in Medicaid DSH payments under this Section, either as a qualifying hospital by receipt of Medicaid DSH payments or as a state or local governmental entity funding Medicaid DSH payments, must meet the following conditions during the period of their participation:

1. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

2. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

3. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

4. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

5. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the Low Income and Needy Care Collaboration Agreement.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disproportionate Share Hospital
Payments—Low Income and Needy Care Collaboration**

6. A participating hospital may not return any of the Medicaid DSH payments it receives under this Section to the governmental entity that provides the non-federal share of the Medicaid DSH payments.

7. A participating governmental entity may not receive any portion of the Medicaid DSH payments made to a participating hospital under this Section.

L. Each participant must certify that it complies with the requirements of §2713.K by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

M. Each qualifying hospital must submit a copy of its Low Income and Needy Care Collaboration Agreement to the department.

N. The Medicaid DSH payments authorized in LAC 50:V.Subpart 3 shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert
Secretary

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic costs of \$37,040,451 for FY 13-14, \$38,520,000 for FY 14-15 and \$38,730,000 for FY 15-16; however, the state match shall be funded through an intergovernmental transfer of funds from the qualifying hospitals to the department to secure the federal match to fund this program. It is anticipated that \$902 (\$451 SGF and \$451 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$62,960,451 for FY 13-14, \$61,480,000 for FY 14-15 and \$61,270,000 for FY 15-16. It is anticipated that \$451 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the January 20, 2010 and January 1, 2011 emergency rules which amended the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients. It is anticipated that implementation of this proposed Rule will increase programmatic expenditures in the Medicaid Program by approximately \$100,000,000 for FY 13-14, \$100,000,000 for FY 14-15 and \$100,000,000 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed Rule will not have an effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1309#080

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments Small Rural Hospitals Qualifying Criteria (LAC 50.V.2705)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4).

Act 147 of the 2010 Regular Session of the Louisiana Legislature redefined the qualifying criteria for rural hospitals. In compliance with Act 147, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to small rural hospitals in order to redefine the qualifying criteria (*Louisiana Register*, Volume 38, Number 8). This proposed Rule is being promulgated to continue the provisions of the September 1, 2012 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2705. Small-Rural Hospitals

A. Definitions

* * *

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

- a. - i.i. ...
- ii. in a parish with a population of less than 15,800 as measured by the 2000 census; or
- m. has no more than 60 hospital beds as of November 1, 2013 and is located:
 - i. as measured by the 2000 census, in a municipality with a population of less than 33,000;
 - ii. as measured by the 2000 census, in a parish with a population of less than 68,000; and
 - iii. within 3 miles of Jackson Barracks.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Disproportionate Share Hospital Payments—Small Rural Hospitals—Qualifying Criteria

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 13-14. It is anticipated that \$164 will be collected in FY 13-14 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to continue the provisions of the September 1, 2012 Emergency Rule which amended the provisions governing disproportionate share hospital (DSH) payments to small rural hospitals in order to redefine the qualifying criteria for one hospital to receive DSH

payments. It is anticipated that implementation of this proposed Rule will not have economic costs or benefits to small rural hospitals in FY 13-14, FY 14-15, and FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed Rule will not have an effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1309#081

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Greater New Orleans Community
Health Connection Waiver
Eligibility and Reimbursement Methodology Changes
(LAC 50:XXII.6303 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXII.6303 and 6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a demonstration program under the authority of a Section 1115 Waiver, called the Greater New Orleans Community Health Connection (GNOCHC) Waiver, to ensure continued access to primary and behavioral health care services that were restored and expanded in the greater New Orleans area (*Louisiana Register*, Volume 38, Number 3).

Due to a budgetary shortfall in state fiscal year 2014, the department has now determined that it is necessary to amend the provisions of the GNOCHC Waiver in order to adopt more restrictive eligibility standards, and revise the reimbursement methodology in order to reduce the reimbursements for GNOCHC Waiver services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 7. Greater New Orleans Community Health Connection Waiver

Chapter 63. Eligibility

§6303. Recipient Qualifications

A. - A.5. ...

6. have family income up to 100 percent of the federal poverty level; and

A.7. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:820 (March 2012), LR 39:

Chapter 69. Reimbursement

§6903. Reimbursement Methodology Payments

A. - B. ...

C. Effective for dates of service on or after January 1, 2014, the department shall make the following payment reductions in the GNOCHC Waiver.

1. The bundled payment rate for primary care encounters shall be reduced from \$235.51 to \$205. Behavioral health encounters will continue to be reimbursed at the current rates in effect on December 31, 2013.

2. Infrastructure investment payments shall be eliminated.

3. Year-end supplemental payments, which proportionately redistribute any remaining balance of the annual program budget amongst all providers, shall be eliminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:822 (March 2012), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced provider payments.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the payment reductions.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Greater New Orleans Community
Health Connection Waiver**

Eligibility and Reimbursement Methodology Changes

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not result in a fiscal impact to total state general fund expenditures in FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not result in a fiscal impact to total state general fund expenditures in FY 13-14. It is anticipated that \$328 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule amends the provisions of the Greater New Orleans Community Health Connection (GNOCHC) Waiver to adopt more restrictive eligibility standards, and revise the reimbursement methodology to reduce the payments to certain providers for GNOCHC Waiver services. Although the level of reimbursement to individual providers are projected to be reduced as a result of the implementation of this rule, it is anticipated that there will be no impact to aggregate spending for the program in FY 13-14. The payment methodology changes are anticipated to allow payments to be continued past the initial projected termination date of the program or through June 30, 2014.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made to providers. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1309#082

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.953)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.953 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates and to provide for a supplemental Medicaid payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - H.2. ...

3. - 5. Reserved.

I. - I.2. ...

3. - 5. Reserved.

J. - N.2.b. ...

3. Effective for dates of service on or after January 1, 2011, all parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation.

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the low income and needy care collaboration agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate

certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its low income and needy care collaboration agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

O. - Q.1....

R. - S. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 35:1896 (September 2009), LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services Non-Rural, Non-State Hospitals Low Income and Needy Care Collaboration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 13-14. It is anticipated that \$205 will be collected in FY 13-14 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to revise the participation requirements for the Low Income and Needy Care Collaboration. It is anticipated that implementation of this proposed rule will have no economic costs or benefits to hospitals in FY 13-14, FY 14-15, and FY 15-16; however, the provisions may impact one hospital which will now qualify under the new criteria.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Director
1309#083

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility
Disability Medicaid Program Termination
(LAC 50:III.2305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to establish an optional program under the Medicaid State Plan called the Disability Medicaid Program

(*Louisiana Register*, Volume 34, Number 5). The Disability Medicaid Program provides Medicaid-only coverage to individuals who are aged or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance.

Due to a budgetary shortfall in state fiscal year 2014, the department has now determined that it is necessary to terminate the Disability Medicaid Program, and hereby proposes to repeal the provisions of the May 2008 Rule. Recipients who currently receive Medicaid coverage under this optional program are urged to immediately apply for SSI cash assistance through the Social Security Administration since their Medicaid coverage will end on December 31, 2013 if they are not eligible for coverage in another Medicaid program. Recipients eligible for SSI cash assistance automatically receive full Medicaid coverage.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2305. Disability Medicaid Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 as it may compromise access to medical care for individuals with disabilities.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it may place an increased financial burden on persons with disabilities.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written

comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Disability Medicaid Program Termination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$17,971,314 for FY 13-14, \$38,500,407 for FY 14-15 and \$39,871,609 for FY 15-16. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$30,547,438 for FY 13-14, \$61,448,729 for FY 14-15 and \$63,076,001 for FY 15-16. It is anticipated that \$123 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule repeals the provisions governing the Disability Medicaid Program in order to terminate this optional Medicaid program (approximately 9,257 recipients impacted). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$48,518,998 for FY 13-14, \$99,949,136 for FY 14-15 and \$102,947,610 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Director
1309#084

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility Income Disregards for Pregnant Women

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal the provisions of the June 20, 2003 uncodified Rule governing income disregards for low income pregnant women as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The department has now determined that it is necessary to repeal the provisions governing Medicaid eligibility income disregards for pregnant women in order to coincide with the promulgation of the September 20, 2013 Notice of Intent (governing eligibility changes for Medicaid eligible pregnant women) which proposes to adopt more restrictive eligibility standards. As a result of the eligibility changes proposed for pregnant women in January 2014, these income disregard provisions are no longer applicable.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals the provisions of the June 20, 2003 Rule governing income disregards for low income pregnant women. As a result of the proposed Medicaid eligibility changes for January 2014, these income disregard provisions will no longer be applicable to the financial eligibility determination for Medicaid coverage of low income pregnant women in the LaMOMS Program.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 as it may compromise access to medical care for pregnant women.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it may place an increased financial burden on pregnant women.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Income Disregards for Pregnant Women

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 13-14. It is anticipated that \$164 will be collected in FY 13-14 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule repeals the provisions governing income disregards for low income pregnant women in order to coincide with the promulgation of the September 20, 2013 Notice of Intent governing eligibility changes for Medicaid eligible pregnant women which proposes to adopt more restrictive eligibility standards. It is anticipated that implementation of this proposed rule will not have economic costs or benefits in FY 13-14, FY 14-15, and FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Director
1309#085

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility—LaMOMS Program Eligibility Changes for Pregnant Women (LAC 50:III.2315)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace the provisions of the December 20, 1984, December 20, 1988, April 20, 1990, July 20, 1990, May 20, 1996, July 20, 1996, and June 20, 2003 Rules governing services for Medicaid eligible pregnant women, and proposes to adopt LAC 50:III.2315 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Pursuant to the Omnibus Budget Reconciliation Act of 1986, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions under the Medicaid State Plan to provide health care coverage to pregnant women (*Louisiana Register*, Volume 14, Number 12). The LaMOMS Program provides Medicaid coverage to eligible pregnant women with family income up to 200 percent of the federal poverty level, inclusive of the applicable income disregard.

Due to a budgetary shortfall in state fiscal year 2014, the department has now determined that it is necessary to amend the provisions governing the LaMOMS Program in order to adopt more restrictive eligibility standards, and to repromulgate the provisions governing Medicaid coverage for pregnant women in a codified format for inclusion in the *Louisiana Administrative Code*.

This proposed Rule shall also repeal and replace the provisions of the December 20, 1984, December 20, 1988, April 20, 1990, July 20, 1990, and June 20, 2003 Rules, in their entirety, governing services for Medicaid eligible pregnant women. In May of 1996, the *Medicaid Eligibility Manual* was adopted as a Rule (*Louisiana Register*, Volume 23, Number 5), including provisions governing Medicaid coverage of pregnant women. The May 20, 1996 Rule was repromulgated on July 20, 1996 to make corrections to the price of the manual (*Louisiana Register*, Volume 23, Number 7). This proposed Rule shall repeal the Sections of the May 20, 1996 and the July 20, 1996 Rules governing Medicaid coverage of pregnant women in order to amend and repromulgate these provisions in a codified format in LAC 50:III.2315.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2315. LaMOMS Program

A. Pursuant to the provisions of the Omnibus Budget Reconciliation Act of 1986, the Department of Health and Hospitals, Bureau of Health Services Financing shall provide health care coverage through the LaMOMS Program

to Medicaid eligible pregnant women with low income under the Medicaid state plan.

B. Eligibility Requirements. Eligibility for LaMOMS coverage may begin at any time during a pregnancy, and as early as three months prior to the month of application. Eligibility cannot begin before the first month of pregnancy. The pregnant woman must be pregnant for each month of eligibility, except for the 60-day postpartum period.

C. Financial Eligibility. Effective January 1, 2014, the LaMOMS Program shall provide Medicaid coverage to pregnant women with family income up to 133 percent of the federal poverty level. For applicants with income above 133 percent of the federal poverty level, 5 percent of the federal poverty level shall be disregarded from their income.

1. Changes in income shall be disregarded during the period of pregnancy and for the 60-day postpartum period.

D. The LaMOMS program shall provide Medicaid coverage for:

1. prenatal care;
 2. delivery;
 3. conditions which may complicate the pregnancy;
- and
4. postpartum care up to 60 days after the pregnancy ends.

E. Certification Period. The LaMOMS certification period begins with the first month of eligibility and continues without interruption through the calendar month in which the 60-day postpartum period ends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 as it may compromise access to medical care for pregnant women.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it may place an increased financial burden on pregnant women.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid Eligibility

LaMOMS Program

Eligibility Changes for Pregnant Women

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$4,077,370 for FY 13-14, \$8,735,433 for FY 14-15 and \$9,046,548 for FY 15-16. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$6,930,791 for FY 13-14, \$13,942,223 for FY 14-15 and \$14,311,438 for FY 15-16. It is anticipated that \$205 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule repeals and replaces all of the Rules governing Medicaid coverage for pregnant women through the LaMOMS Program and repromulgates these provisions in a codified format for inclusion in the Louisiana Administrative Code in order to adopt more restrictive eligibility standards. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$11,008,571 for FY 13-14, \$22,677,656 for FY 14-15 and \$23,357,986 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Director
1309#086

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medicaid Eligibility—Medicaid Purchase Plan Eligibility Changes (LAC 50:III.763, 765, and 2309)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace LAC 50:III.763-765 governing Workers with Disabilities, and to adopt LAC 50:III.2309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with the provisions of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 and Act 207 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement a Medicaid buy-in program called the Medicaid Purchase Plan (*Louisiana Register*, Volume 29, Number 11). The Medicaid Purchase Plan Program allows working persons with disabilities to buy into Medicaid coverage in order to meet health care needs while supporting their employment efforts.

Due to a budgetary shortfall in state fiscal year 2014, the department has now determined that it is necessary to amend the provisions governing the Medicaid Purchase Plan Program in order to adopt more restrictive eligibility standards, and to eliminate buy-in premiums. This proposed Rule shall also repeal the provisions in LAC 50:III.763-765, and amend and repromulgate these provisions in LAC 50:III.2309 in order to ensure that the provisions are located in the appropriate place in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 7. Medicaid Programs

§763. Workers with Disabilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2399 (November 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§765. Recipient Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2399 (November 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs

§2309. Medicaid Purchase Plan

[Formerly LAC 50:III.763-765]

A. Effective January 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented the Medicaid Purchase Plan Program for workers with disabilities under title XIX of the Social Security Act. The Medicaid Purchase Plan allows persons who meet the Social Security disability criteria to seek the employment services, vocational rehabilitation services, and other support services needed to obtain, regain or maintain employment, and reduce their independence on cash benefit programs.

B. Recipient Eligibility. Effective January 1, 2014, the Medicaid purchase plan shall cover workers with disabilities who meet the following criteria:

1. are employed;
2. are age 16 through age 64;
3. meet the Social Security Administration criteria for disability;
4. have net income less than 100 percent of the federal poverty level;
5. have countable resources (assets) less than \$10,000;
 - a. all life insurance policies, medical savings accounts, and retirement accounts shall be counted towards the resource limit; and
6. are enrolled in no-cost health insurance.

C. Spousal income and resources shall be counted towards the income and resource limits.

D. Effective January 1, 2014, buy-in premiums shall be eliminated from the Medicaid Purchase Plan Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 as it may compromise access to medical care for individuals with disabilities.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it may place an increased financial burden on persons with disabilities.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Medicaid Purchase Plan—Eligibility Changes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$2,560,677 for FY 13-14, \$5,486,292 for FY 14-15 and \$5,681,689 for FY 15-16. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$4,352,769 for FY 13-14, \$8,756,420 for FY 14-15 and \$8,988,305 for FY 15-16. It is anticipated that \$246 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule repeals and replaces the provisions governing the Medicaid Purchase Plan Program for workers with disabilities in order to adopt more restrictive eligibility standards (approximately 1,187 recipients impacted). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$6,913,938 for FY 13-14, \$14,242,712 for FY 14-15 and \$14,669,994 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Director
1309#087

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Physician Services
Reclassification of Optometry Services
(LAC 50:IX.15111 and 15113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and proposes to adopt LAC 50:IX.15111 and amend LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for optometry services as an optional covered service under the Medicaid State Plan. Optometrists are classified in the Medicaid State Plan as other licensed practitioners and their services are not considered mandatory physician services.

The American Recovery and Reinvestment Act (ARRA) of 2009 authorized 100 percent federal financial participation to states for the purpose of establishing incentive payments to encourage Medicaid health care providers to adopt, implement, and use certified electronic health records (EHR) technology. The Act does not provide for incentive payments to optometrists unless the services rendered by these practitioners are classified as mandatory physician services under the Medicaid State Plan.

Since the department already provides Medicaid reimbursement to participating optometrists to the same extent as physicians who perform the same eye care services, the department promulgated an Emergency Rule which amended the provisions governing physician services in the Professional Services Program in order to reclassify optometry services as a mandatory physician service under the Medicaid State Plan (*Louisiana Register*, Volume 38, Number 10). This reclassification will allow optometrists to qualify for EHR incentive payments. This Emergency Rule also repealed the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and revised and repromulgated the June 1985 Rule in a codified format for inclusion in the *Louisiana Administrative Code* (LAC). The department promulgated an Emergency Rule which amended the provisions of the October 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 39, Number 5).

The department promulgated an Emergency Rule which amended the provisions of the May 20, 2013 Emergency Rule in order to further revise the formatting to ensure that these provisions are appropriately promulgated in the LAC (*Louisiana Register*, Volume 39, Number 8). This proposed Rule is being promulgated to continue the provisions of the October 1, 2012, May 20, 2013 and August 20, 2013 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15111. General Provisions

A. The reimbursement rates for physician services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. The reimbursement rates shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Optometry Services

1. Effective October 1, 2012, eye care services rendered by a participating optometrist, within their scope of optometric practice, shall be classified and reimbursed under the Medicaid state plan as a mandatory physician service to the same extent, and according to the same standards as physicians who perform the same eye care services.

2. Recipients in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program are excluded from optometry service limits.

3. The Medicaid Program shall not provide reimbursement for eyeglasses provided to Medicaid recipients 21 years of age or older.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§15113. Reimbursement

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered

to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

D. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

2. - 3.b. Repealed.

E. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. - 1.c. Repealed.

F. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare average sales price (ASP) allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.D-F shall be increased to the rates in §15113.D-F.

H. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);
2. vaginal delivery after previous cesarean (VBAC) delivery; and
3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when

the service is rendered to recipients 16 years of age and older.

I. - I.3. ...

J. - J.4. Reserved.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Physician Services—Reclassification of Optometry Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. This allows incentive payments to qualifying optometrists which shall be 100 percent federally funded. Providers currently receive reimbursement for Medicaid covered services. It is anticipated that \$738 (\$369 SGF and \$369 FED) will be expended in FY 13-14 for the

state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase revenue collections by an indeterminate amount in FY 13-14. The incentive payments are 100 percent federally funded; however, there is no way to determine how many optometrists will qualify. It is anticipated that \$369 will be collected in FY 13-14 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to continue the provisions of the October 1, 2012, May 20, 2013 and August 20, 2013 Emergency Rules which amend the provisions governing physician services in the Professional Services Program in order to reclassify optometry services as a mandatory physician service under the Medicaid State Plan. There is no projected claims impact since these providers currently receive reimbursement for Medicaid covered services. This reclassification will allow optometrists to qualify for EHR incentive payments. This proposed Rule is also being promulgated to repeal the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and to revise and repromulgate the June 1985 Rule in a codified format for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed Rule will not have economic costs, but will have economic benefits to optometrists for FY 13-14, FY 14-15, and FY 15-16 who choose to participate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Director
1309#088

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Professional Services Program—Physician Services
Reimbursement Rate Reductions (LAC 50:IX.15113)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3). As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for

certain procedures (*Louisiana Register*, Volume 38, Number 7).

The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10). Due to a continuing budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to further reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the October 20, 2012 and February 1, 2013 Emergency Rules in order to revise the formatting of these provisions in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 39, Number 5). The department promulgated Emergency Rules which amended the provisions of the May 20, 2013 Emergency Rules governing the reimbursement methodology for physician services (*Louisiana Register*, Volume 39, Volume 8). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012, October 20, 2012, February 1, 2013, May 20, 2013 and August 20, 2013 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - H.3. ...

I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional services procedure (consult) codes 99241-99245 and 99251-99255 shall be discontinued;

2. cesarean delivery fees (procedure codes 59514-59515) shall be reduced to equal corresponding vaginal delivery fees (procedure codes 59409-59410); and

3. reimbursement for all other professional services procedure codes shall be reduced by 3.4 percent of the rates on file as of June 30, 2012.

J. - J.4. Reserved.

K. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S.

49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the reimbursement rate reductions.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Physician Services—Reimbursement Rate Reductions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$2,041,417 for FY 13-14, \$2,186,895 for FY 14-15 and \$2,264,782 for FY 15-16. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$3,470,113 for FY 13-14, \$3,490,403 for FY 14-15 and \$3,582,835 for FY 15-16. It is anticipated that \$205 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent

in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 1, 2012, October 20, 2012, February 1, 2013, May 20, 2013 and August 20, 2013 emergency rules which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$5,511,940 for FY 13-14, \$5,677,298 for FY 14-15 and \$5,847,617 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for physician services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Director
1309#089

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health

Substance Abuse Services
Reimbursement Rate Reduction
(LAC 50:XXXIII.14701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.14701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program which provides coverage of substance abuse services for children and adults (*Louisiana Register*, Volume 38, Number 2).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for substance abuse services to reduce the reimbursement rates for outpatient substance abuse services provided to children/adolescents (*Louisiana Register*, Volume 38, Number 7).

This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 15. Substance Abuse Services

Chapter 147. Reimbursement

§14701. Reimbursement Methodology

A. ...

B. Effective for dates of service on or after July 1, 2012, the reimbursement rates for outpatient substance abuse services provided to children/adolescents shall be reduced by 1.44 percent of the rates in effect on June 30, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Substance Abuse Services
Reimbursement Rate Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$2,217 for FY 13-14, \$2,507 for FY 14-15 and \$2,596 for FY 15-16. It is anticipated that \$246(\$123 SGF and \$123 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$3,855 for FY 13-14, \$4,001 for FY 14-15 and \$4,107 for FY 15-16. It is anticipated that \$123 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 emergency rule which amended the provisions governing the reimbursement methodology for substance abuse services to reduce the reimbursement rates for outpatient substance abuse services provided to children/adolescents. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$6,318 for FY 13-14, \$6,508 for FY 14-15 and \$6,703 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for substance abuse services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Director
1309#090

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Targeted Case Management Reimbursement Rate Reduction (LAC 50:XV.10701)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) promulgated an Emergency Rule which adopted provisions to establish Medicaid payment of uncompensated care costs for TCM services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 38, Number 7). The provisions of the July 1, 2012 Emergency Rule were promulgated as a final Rule in January 20, 2013 (*Louisiana Register*, Volume 39, Number 1).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7).

Due to a continuing budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program and TCM services rendered to HIV disabled individuals (*Louisiana Register*, Volume 39, Number 1). The department subsequently promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule in order to revise these provisions as a result of the TCM service terminations (*Louisiana Register*, Volume 39, Number 2). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 and February 20, 2013 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - F.1. ...

G. Effective for dates of service on or after July 1, 2012, the reimbursement for case management services provided to the following targeted populations shall be reduced by 1.5 percent of the rates on file as of June 30, 2012:

1. participants in the Early and Periodic Screening, Diagnosis, and Treatment Program; and

2. individuals with developmental disabilities who participate in the new opportunities waiver.

H. - H.3.a. ...

I. - J. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 30, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Targeted Case Management
Reimbursement Rate Reduction**

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$103,683 for FY 13-14, \$111,236 for FY 14-15 and \$115,198 for FY 15-16. It is anticipated that \$328(\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$176,353 for FY 13-14, \$177,539 for FY 14-15 and \$182,240 for FY 15-16. It is anticipated that \$164 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 and the February 20, 2013 emergency rules which amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to reduce the reimbursement rates and revised these provisions as a result of the TCM service terminations. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$280,364 for FY 13-14, \$288,775 for FY 14-15 and \$297,438, for FY 15-16.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for TCM services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Director
1309#091

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Traumatic Head and Spinal Cord Injury Trust Fund Program
(LAC 48:I.Chapter 19 and LAC 67:VII.Chapter 19)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to amend the Traumatic Head and Spinal Cord Injury Trust Fund Program regulations as authorized by R.S. 36:259(T). This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2012 Regular Session, the Louisiana Legislature authorized the transfer of the Traumatic Head and Spinal Cord Injury Trust Fund and its functions to the Department of Health and Hospitals, Office of Aging and Adult Services (R.S. 36:259(T)). The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board (R.S. 46:2631-2635) was also placed within the Department of Health and Hospitals. This proposed Rule is being promulgated to adopt the changes created by the new legislation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 19. Traumatic Head and Spinal Cord Injury

Editor's Note: This Chapter, formerly LAC 67:VII.Chapter 19, was moved to LAC 48:I.Chapter 19.

§1901. Program Profile

[Formerly LAC 67:VII.1901]

A. Mission. To provide services in a flexible, individualized manner to Louisiana citizens who survive traumatic head or spinal cord injuries enabling them to return to a reasonable level of functioning and independent living in their communities.

B. Program Administration

1. The Department of Health and Hospitals, Office of Aging and Adult Services (OAAS), shall be responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund.

2. OAAS will have the responsibility of:

a. promulgating rules and regulations;
b. establishing priorities and criteria for disbursement of the fund;

c. evaluating the needs of head injured and spinal cord injured individuals to identify service gaps and needs; submitting an annual report with recommendations to the legislature and governor 60 days prior to each Regular Session of the Legislature; and

d. monitoring, evaluating, and reviewing the development and quality of services and programs funded through the trust fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1903. Enabling Legislation

[Formerly LAC 67:VII.1903]

A. House bill number 591, Act 269 of the 2012 Regular Session, chapter 48 of title 46 of R.S. 46:2631-2635 and R.S. 36:259(T).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1905. Definitions

[Formerly LAC 67:VII.1905]

Advisory Board—Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board.

Domiciled—a resident of the state of Louisiana with intent to permanently remain within the state.

Medically Stable—no progression of deficits and/or no deterioration of physical/cognitive status; does not require acute daily medical intervention.

Medically Unstable—progression of neurologic deficits and/or deterioration of medical condition.

Spinal Cord Injury—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraparesis/plegia or quadraparesis/plegia.

Traumatic Head Injury—an insult to the head, affecting the brain, not of a degenerative or congenital nature, but caused by an external physical force that may produce a diminished or altered state of consciousness which results in an impairment of cognitive abilities or physical functioning.

Trust Fund—Traumatic Head and Spinal Cord Injury Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1907. General Requirements

[Formerly LAC 67:VII.1907]

A. Cost-Effective Service Provision. All services shall be provided in a cost-effective manner.

B. Case Record Documentation. A case record will be maintained for each individual served. The record shall contain documentation to support the decision to provide, deny, or amend services. The case record will contain documentation of the amounts and dates of each service delivery.

1. All records must include service plans and progress notes.

2. All records must reflect individual identifications, and other pertinent medical histories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1909. Individual Appeals Rights

[Formerly LAC 67:VII.1911]

A. Administrative Review. The administrative review is a process which may be used by individuals for a timely resolution of disagreements pertaining to eligibility decisions or a denial of services. The administrative review will allow the individual an opportunity for a face-to-face or telephone meeting with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program regarding the issues of concern. The individual will have the right to bring representation to the administrative review.

1. All applicants must be provided adequate notification of appeal rights regarding eligibility and/or the provision or denial of services. Unless services being provided have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the individual, such services will continue during the administrative review process.

2. In order to insure that the individuals are afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

- a. the decision being reached;
- b. the basis for and effective date of the decision;
- c. the specific means for appealing the decision;
- d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an administrative review or advisory board review.

3. The appeal request must be made in writing and post-marked or received in the office of the program manager of the trust fund program within 10 calendar days of receipt of notification of denial of eligibility or a denial of services. The administrative review must take place and a decision reached within 30 calendar days of the receipt of the individuals' appeal request. The individual must be provided with a final written decision within that time period.

4. If the individual fails to attend the administrative review either in person or via telephone, the appeal will be considered abandoned and the appeal process is exhausted.

B. Advisory Board Review. In the event that a disputed decision is not resolved through the administrative review process, the individual may request a review before the advisory board. The individual must make the request for an advisory board review in writing to the program manager of the trust fund program. This request must be post-marked or received in the office of the program manager within 10 calendar days of receipt of the program manager's decision

following the administrative review. The advisory board review will take place at the time of the next regularly scheduled advisory board meeting following the receipt of the individual's written request, unless the program manager deems that it is necessary to address the situation sooner, in which case a special meeting of the advisory board could be called for the purpose of conducting the review. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the advisory board review.

1. In order to insure that the individual is afforded the option of availing himself or herself of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

- a. the decision being reached;
- b. the basis for and effective date of the
- c. the specific means for appealing the decision;
- d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an advisory board review.

2. The advisory board will make an impartial decision based on the provisions of the trust fund policy manual and rules of the program and will provide to the applicant or individual, or if appropriate, the representative, a full written report of findings following the review.

3. A final written decision must be rendered within two weeks of the advisory board review. The decision of the Advisory Board is final and the appeal process is exhausted.

4. If the individual fails to attend the appeal hearing either in person or via telephone, the appeal will be considered abandoned and the appeal process is exhausted.

NOTE: The advisory board review will complete the individual's avenue of appeal within the trust fund program.

AUTHORITY NOTE; Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1254 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1911. Program Eligibility

[Formerly LAC 67:VII.1913]

A. In order for an individual to be determined eligible for services, the individual:

1. must meet the definition of *spinal cord injury* or *traumatic brain injury* as defined;
2. must be a resident of state of Louisiana and officially domiciled in the state of Louisiana at the time of injury and during the provision of services;
3. must have a reasonable expectation to achieve improvement in functional outcome;
4. must have exhausted all other governmental and private sources;
5. must provide proof of denial from other sources;
6. must be willing to accept services from an approved facility/program;
7. must be medically stable;
8. must complete and submit appropriate application for services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1913. Ineligibility

[Formerly LAC 67:VII.1915]

A. A determination of ineligibility is made when:

1. the individual is medically unstable; or
2. the disabling condition is other than a spinal cord injury or traumatic head injury as defined; or
3. any of the other ineligibility criteria are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1915. Fiscal

[Formerly LAC 67:VII.1917]

A. Expenditures on behalf of any one individual shall neither exceed \$15,000 for any one 12-month period nor \$50,000 in total life time expenditures.

B. All applicable state and departmental purchasing policies and procedures must be followed.

C. The trust fund will not purchase vehicles (automobiles, trucks, vans, etc.) or real estate.

D. Prior Written Authorization and Encumbrance. The proper authorizing document(s) must be written before the initiation of goods or services. Failure to obtain prior authorization will result in a denial of products or services. The program manager may approve items to be reimbursed for situations deemed unavoidable/emergency.

E. All monies that are collected for the Traumatic Head and Spinal Cord Injury Trust Fund Program are to be budgeted in the following fiscal year including but not limited to all monies collected and not expended from any and all prior calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S.36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1917. Service Plan

[Formerly LAC 67:VII.1919]

A. Following a determination of eligibility for services, an appropriate individualized assessment will be completed to determine the scope of services. After a case-by-case assessment of needs, a service plan will be developed, implemented, and updated as appropriate. The service plan will be individualized and outcome oriented. The service plan will include as a minimum:

1. specific services to be delivered or rendered;
2. frequency of the service(s) beginning and ending dates;
3. costs of services;
4. service provider.

B. The case record will include all updates and amendments to the service plan.

C. The individual or authorized representative must give informed written consent to the service plan and all

amendments. The service plan will be presented by means understandable to the individual served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office the Office of Aging and Adult Services, LR 39:

§1919. Services

[Formerly LAC 67:VII.1921]

A. Services are authorized, coordinated and provided for eligible individuals in accordance with each person's service plan.

B. Service plans should be targeted to achieve specific objectives for the specific individuals who are eligible. Additional documentation may be requested to show specific objectives for the requested services or goods.

C. Services should be planned and delivered with specific identifiable anticipated and described outcomes. These outcomes should result in definable improvements in functioning in their homes and communities.

D. Services may include, but are not limited to:

1. evaluations;
2. post-acute medical care rehabilitation;
3. therapies;
4. medication;
5. attendant care;
6. assistive technology and equipment necessary for activities of daily living;
7. durable medical equipment;
8. environmental accessibility modifications (owned by participant or participant's immediate family);
9. vehicle accessibility modifications (owned by participant or participant's immediate family);
10. transportation.

E. The trust fund will not pay for the following. This list is not exclusive:

1. home purchases;
2. vehicle purchases;
3. routine vehicle maintenance;
4. routine home repairs;
5. recreation;
6. routine bills or payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office the Office of Aging and Adult Services, LR 39:

§1921. Service Providers

[Formerly LAC 67:VII.1923]

A. All service providers must be approved by OAAS.

B. In-state programs/facilities will be given priority for approval as service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office the Office of Aging and Adult Services, LR 39:

§1923. Conditions for Case Closure

[Formerly LAC 67:VII.1925]

A. An individual's case can be closed at any time in the process when it has been determined that the individual:

1. has an unstable medical condition;
2. has shown consistent failure to cooperate with the service plan and case managers;
3. reaches the maximum \$50,000 in total expenditures;
4. is eligible for other funding sources;
5. is not available for scheduled services;
6. does not meet the program's eligibility criteria;
7. resides in another state or has a change of residence;
8. fails to maintain a safe and legal home environment;
9. is unable to be contacted by phone or mail;
10. made misrepresentations in the eligibility determination process;
11. made misrepresentations to obtain goods and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office the Office of Aging and Adult Services, LR 39:

§1925. Limitation of Liability

[Formerly LAC 67:VII.1927]

A. Members of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board shall have limited liability as specified in R.S. 9:2792.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office the Office of Aging and Adult Services, LR 39:

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 19. Traumatic Head and Spinal Cord Injury Trust Fund Program Policy

§1901. Program Profile

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1903. Enabling Legislation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1905. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1907. General Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1909. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1911. Individual Appeal Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1254 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1913. Eligibility for Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1915. Ineligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1917. Fiscal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1919. Service Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1921. Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1923. Service Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1925. Conditions for Case Closure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§1927. Limitation of Liability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a neutral effect on the ability of the family to perform its functions since the rule only authorizes the transfer of responsibilities from the Department of Children and Family Services (DCFS) to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAS).

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to the individual.

Small Business Statement

A regulatory flexibility analysis pursuant to R.S. 49:965.6 has been conducted. It has been determined that the promulgation of this Rule will not have an adverse impact on small business.

Public Comments

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for October 30, 2013 at 1 p.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Traumatic Head and Spinal Cord Injury Trust Fund Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to repeal the current Department of Children and Family (DCFS) rule governing the Traumatic Head and Spinal Cord Injury Trust Fund Program, Louisiana Administrative Code (LAC) Title 67, Part VII, Section 1901-1927. Per statute, the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS) is now responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund under the promulgation of LAC Title 48, Part I, Section 1901-1925. The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board is also placed within DHH.

This proposed rule change does not affect current services offered through the Traumatic Head and Spinal Cord Injury Trust Fund Program and therefore are not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 (SGF) in FY 13-14. This cost is routinely included in the agency's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no known effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no known cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule is not anticipated to have any effect on competition and employment.

Hugh Eley
Assistant Secretary
1309#041

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary

Health Care Data Reporting (LAC 48:I.13101-13123)

The Department of Health and Hospitals, Office of the Secretary proposes to repeal LAC 48:V.Chapter 151 governing State Center for Health Statistics in its entirety and adopt LAC 48:I.Chapter 131 as authorized by R.S. 40:1300.111 et seq. This proposed Rule is promulgated under the authority of R.S. 40:1300.112(10) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as amended.

This rulemaking provides procedures and guidelines for the reporting of statewide health care data and the protection of the confidentiality of certain data elements in order to better understand patterns and trends in the availability, use, and charges of health care services, and the underlying patterns of disease which necessitate these services in the state. The department solicited feedback and collaboration from health care facilities and related professional associations in advance of the rulemaking process. The department conducted meetings, listening sessions in Monroe, Shreveport, Lake Charles, Lafayette, Marrero, and Baton Rouge, as well as hosted webinars between the months of April and August 2013 in an effort to receive input from participants and incorporate that feedback toward the completion of this proposed Rule.

Title 48

PUBLIC HEALTH – GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 131. Health Care Data Reporting

§13101. Purpose

A. Louisiana R.S. 40:1300.111 et seq. assigns to the Department of Health and Hospitals the responsibility for the collection and dissemination of health care data. The legislative action was based upon a finding that, as a consequence of rising health care costs, the shortage of health professionals and health care services in many areas of the state, and the concerns expressed by consumers, health care providers, third-party payers, and others involved with making informed decisions regarding health care services, treatment, and coverage, there is a need to have access to provider specific health care cost, quality, and outcome data on health care facilities, health care providers, and health plans as well as continued access to global patterns and trends in the availability, use, and charges for health care services and the associated health circumstances. The statute requires that all state agencies and health professional licensing, certification, or registration boards and commissions, which collect, maintain, or distribute health data, shall provide the information necessary to carry out the purpose of this law. In accordance with the statute, the collection of health care data is to be accomplished in collaboration with health care purchasers, hospitals and other service providers, consumer and patient advocacy groups, quality improvement and health information technology groups, physicians, and any other pertinent

individuals or groups comprising a health data panel appointed by the Secretary of the Department of Health and Hospitals. In addition, all health care providers licensed by the state, including but not limited to hospitals, outpatient surgical facilities, and outpatient clinical facilities, shall submit information in the manner and form prescribed in these regulations. It is the purpose of these regulations to provide directions for the required collection, submittal, management, and dissemination of health care data and to provide for the confidentiality of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13103. Definitions

A. For the purposes of these regulations, the following words and phrases, when used herein, shall be construed as listed below.

Act 537—Act 537 of the 2008 Regular Legislative Session, which amended and reenacted LA R.S. 40:1300.111 et seq.

Aggregate Data Set—an array of counts of patient level records, or of totals of patient level record quantities (example: total charges), classified by data categories (example: “year of discharge”). Aggregate data sets may be used to present health data usefully, yet in a manner which can minimize potential for identification of confidential information.

Ambulatory Surgery Information—all billing, medical, and personal information describing a patient, the services received, and charges billed, associated with a single ambulatory-surgery procedure, according to the most current institutional-claim standards established by the National Uniform Billing Committee (NUBC) and the American National Standards Institute, Accredited Standards Committee (ANSI/ASC) X12.

Ambulatory Surgery (Data) Record—the structured document, in electronic form, of all the data for a single ambulatory-surgery procedure, or the data content of that document, according to the most current institutional-claim standards established by NUBC and ANSI/ASC X12. This often will include more than one data record.

Ambulatory Surgical Center—

a. an establishment, which is subject to licensure as an ambulatory surgical center by the department, with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services and registered professional nursing services available whenever a patient is in the facility, which does not provide services or other accommodations for patients to stay overnight, and which offers the following services whenever a patient is in the center:

- i. drug services as needed for medical operations and procedures performed;
- ii. provisions for physical and emotional well-being of patients;
- iii. provision of emergency services;
- iv. organized administrative structure;
- v. administrative, statistical and medical records;

b. for the purposes of this rule, *ambulatory surgical center* also includes hospital-based facilities which perform ambulatory-surgery procedures.

Confidential Information—that information defined as confidential in this rule including, but not limited to:

- a. employer identifiers, facility identifiers, patient or insured identifiers, payer identifiers, or physician or other service provider identifiers;
- b. information identified by the identifiers;
- c. combinations of data categories derived from part or all of the database information that would identify or tend to identify an employer, facility, patient or insured person, payor, or physician or other service provider;
- d. *protected health information* as defined in the HIPAA Privacy Rule; and
- e. information identified by combinations of these data categories.

Database—a structured repository of data, consisting of one or more related structured data tables.

Data Category—one of the typically (though not necessarily) non-unique data values of a data element, or to equivalent labels for these values. For example, the data categories of the data element years may be three in number: “12,” “13,” and “14,” and may be labeled “2012,” “2013,” and “2014,” whereas the data categories of the data element patient birth date may have thousands of possible values, some of which are probably uniquely associated with exactly one person.

Data Element—a logical field of a data record or a column of a data table, and includes both the named data elements in the Department’s *Louisiana Health Care Data Specifications Manual*, and any other data elements obtained or created by analytic or synthetic methods. Examples: discharge year, age group, sex, or disease group.

Data Record—the row of a data table, or the set of related rows from related tables in a database.

Data Set—a structured subset of data from a database.

Department or *DHH*—the Louisiana Department of Health and Hospitals.

De-Identified Information—patient level data which have been de-identified in accordance with the requirements of the HIPAA Privacy Rule.

Emergency Services—services that are usually and customarily available at a licensed hospital and that must be provided immediately to stabilize a medical condition which, if not stabilized, could reasonably be expected to result in the loss of the person’s life, serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or which is necessary to provide for the care of a woman in active labor if the hospital is so equipped and, if the hospital is not so equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm. For the purposes of this rule, such services are provided to a patient for a period of less than twenty-four consecutive hours and do not result in admission to a hospital as an inpatient.

Employer Identifier—employer name, employer location/address excluding the first three digits of the ZIP code, or other information that identifies an employer.

Facility Identifier—provider name, provider telephone number, provider FAX number, federal tax number or EIN, federal tax sub ID, Medicare provider number, national provider identifier, mailing address excluding the first three digits of the ZIP code, or other information that identifies a facility.

HIPAA Privacy Rule—federal regulations found at 42 CFR Part 160 and Part 164, Subparts A and E, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act, which regulate the use and disclosure of protected health information held by “covered entities”, including DHH.

Health Care Facility or Facility—a facility subject to licensure by the department as either a hospital or an ambulatory surgical center.

Hospital—any institution, place, building or agency, public or private, whether for profit or not-for-profit, which is subject to licensure as a hospital by the department, with facilities for the diagnosis, treatment, or care of persons who are suffering from illness, injury, infirmity, or deformity or other physical condition for which obstetrical, medical, or surgical services would be available and appropriate and which operates or is affiliated with facilities for the overnight care, observation, or recovery of those persons. The term *hospital* does not include the following:

- a. physicians' offices or clinics where patients are not regularly kept as bed patients for 24 hours or more;
- b. nursing homes as defined by and regulated under the provisions of R.S. 40:2009.1 through R.S. 40:2009.12;
- c. persons, schools, institutions or organizations engaged in the care and treatment of mentally retarded children and which are required to be licensed by the provisions of R.S. 28:562 through R.S. 28:566;
- d. hospitalization or care facilities maintained by the state at any of its penal and correctional institutions provided that nothing herein contained shall prevent a penal or correctional institution from applying for licensure of its hospitalization or care facility;
- e. hospitalization or care facilities maintained by the federal government or agencies thereof;
- f. hospitalization or care facilities maintained by any university or college provided that nothing herein contained shall prevent any college or university from applying for licensure of its hospitalization or care facility;
- g. any other entity licensed for the diagnosis, treatment, or care of persons admitted for overnight stay.

Hospital Discharge Information—all billing, medical, and personal information describing a patient, the services received, and charges billed, associated with a single inpatient hospital stay or emergency department visit, according to the most current institutional-claim standards established by the National Uniform Billing Committee (NUBC) and the American National Standards Institute, Accredited Standards Committee (ANSI/ASC) X12.

Hospital Discharge (Data) Record—the structured document, in electronic form, of all the data for a single hospital stay or emergency-department visit, or the data content of that document, according to the most current institutional-claim standards established by NUBC and

ANSI/ASC X12. This often will include more than one data record.

Hospital Stay or Inpatient Hospital Stay—the period, activities, events, and conditions associated with a patient, from the time of admission to a hospital, to the time of discharge from that hospital. Facilities licensed as hospitals and having different provider numbers are, for the purpose of this definition, distinct hospitals having discrete hospital stays and hospital discharges. In addition, for the purposes of this rule, a hospital stay lasts at least 24 consecutive hours.

Intermediary—a data processing agent of a hospital or ambulatory surgical center, who is contracted or employed by that hospital or ambulatory surgical center to relay their health care records to the department in compliance with these rules.

Manual—the *Louisiana Health Care Data Specifications Manual*.

Patient or Insured Identifier—patient name, insured's name, patient address or insured's address, patient control number, Social Security Number, medical record number, health insurance claim identification number, or any other identifier that must be removed in order to de-identify the information in accordance with the requirements of the HIPAA Privacy Rule.

Patient Level Data—the non-aggregate, one logical record per encounter, form of data submitted by hospitals or ambulatory surgical centers which includes part or all of the submitted data elements or recoded data derived from submitted data elements. This term refers to both the *raw* patient level data in the form in which it is submitted, and the cleaned patient level data which may have had error checking or edits applied or which may have been separated into the specifically named patient or insured identifier data elements and the remaining data elements. Patient level data may include all or part of the health care data record.

Payer Identifier—the payer name, payer identification, insured group name, insurance group number, or other information that identifies a payer.

Physician and Other Service Provider Identifier—attending physician name, attending physician number, operating physician name, operating physician number, other physician name, other physician number, or other information that identifies a physician or other service provider.

Publish—to make any health care information available in paper or electronic form to persons who are not department staff authorized to use that information.

Release—a conditional distribution of health care information for purposes authorized by this rule. The release may be conditioned upon the payment of a reasonable charge to compensate the department for the time and expense it incurs in providing copies of the information, in accordance with such statutes and rules regarding copying charges for health care records and public records as may be applicable.

Research—systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

Secure Information—that information which is not subject to release by the department pursuant to this rule, and will not be released for any purpose. Secure information includes patient and insured identifiers.

Submit (with respect to a submission date, and data, reports, surveys, statements or documents required to be submitted to the department)—to deliver, or to cause to be delivered, to the department, in the form and format specified, by the close of business on the prescribed date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13105. Confidentiality

A. Act 537 provides for the strictest confidentiality of health care data and severe penalties for violation of the Act. To effectively govern this provision, the Act mandates that the department ensure confidentiality of patients by enforcing appropriate rules and regulations at least as stringent as the HIPAA Privacy Rule.

B. After editing and compilation of data submitted under this rule, DHH shall separate all patient and insured identifiers from the rest of the file. Redundant methods shall be employed to assure physical security, media security, transmission security, logical security, secure authorized access, and backup of all secure or confidential information. The collection, editing, compilation, storage, analysis, and dissemination of reports or data shall be done in a manner that protects publication of information that identifies or tends to identify an individual patient.

C. Patient level data and electronic forms of data collected and furnished for DHH shall not be available for public inspection.

D. Data may be used as described in §§13107 and 13109 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13107. Use of Health Care Records by DHH

A. Patient level data (raw or cleaned) may be released by DHH to the data provider that submitted those particular data.

B. The department may use patient level data in fulfilling its public health mission and for purposes of program administration. The department will establish procedures for secure use of the data by DHH staff in accordance with the confidentiality provisions of Act 537 and the HIPAA Privacy Rule.

C. The department may release patient level data for use in research, in accordance with the provisions of §13109 of this rule.

D. Aggregate and De-Identified Information

1. In accordance with the provisions of Act 537 concerning the need of consumers to make informed decisions regarding health care services, treatment, and coverage, the department may develop and publish aggregate data reports and aggregate data, as resources permit, that do not disclose *confidential information* as defined in §13103 of this rule. The aggregate data reports and aggregate data shall be public information and may be distributed electronically as determined by DHH including, but not limited to, Internet publications.

2. The department may also release aggregate or de-identified data to parties outside DHH on request, as resources permit. Such data may be released when they do not disclose confidential information, as defined in §13103

of this rule. The data request should be made to DHH and may include:

a. rationale for the study or data use;

b. a summary of the project or study plan, including a definition of, and justification for the particular fields and records necessary for the project or study;

c. signed agreement for use of data affirming that data will be used only for the purpose stated in the request, and that no attempts will be made to combine data provided for this request with other data provided from a previous request or another source, or attempt to identify confidential information.

d. affirmation that a copy of any publication resulting from the use of the records shall be provided to the department;

e. a signed agreement to indemnify and hold the state, DHH, its employees, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

E. DHH Reports Containing Identifiers

1. The department may publish health care data reports with employer, facility, payer and/or physician and/or other health care provider identifiers. The criteria for release of such reports shall include, but are not limited to:

a. the report content and design reflect that the proposal is in the best interest of public health;

b. the reports reflect the use of accepted methods of data analysis;

c. the investigators/researchers are deemed qualified based on their past research, employment, and education;

d. provisions to protect the confidentiality of the patient identifiers comply with §13109 of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13109. Use of Health Care Records in Research

A. Notwithstanding any other provision of this rule, non-aggregate (patient level) data may be disclosed for research purposes, but only under the following circumstances:

1. If the information sought to be used for research qualifies as a “limited data set” as defined in the HIPAA Privacy Rule, it may be released pursuant to a “data use agreement” that meets the specifications of the HIPAA Privacy Rule.

2. If the information sought to be used for research does not qualify as a “limited data set” as defined in the HIPAA Privacy Rule, it may be released only after approval has been given by the DHH Institutional Review Board pursuant to the policies and procedures contained in 45 CFR Part 46 and LAC 48:I.Chapter 25, Departmental Research (as promulgated in *Louisiana Register*, Vol. 24, No. 3, pp. 449-454, March 1998, or as it may be subsequently amended).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13111. Health Care Data Submittal—General

A. Data Reporting Source. All facilities operated and licensed as a hospital or ambulatory surgical center in the state of Louisiana by the department will report health care

data to the department for each patient admitted for inpatient services, emergency services, and/or ambulatory-surgery procedures depending on the types of health care services each licensed facility provides as defined by law. A failure to report may result in action by the licensing authority in accordance with R.S. 40:1300.114 E.

B. Reporting Responsibilities

1. The single billing health care data record must be submitted for the reporting period within which the discharge occurs. If a claim will not be submitted to a provider or carrier for collection (e.g., charitable service), a health care data record must still be submitted to DHH, with the normal and customary charges, as if the claim was being submitted.

2. Multiple Encounters. For a patient with multiple encounters, submit one health care data record for each encounter.

3. Multiple Billing Claims. For a patient with multiple billing claims, the facility should submit all data related to a discharge in one of two ways:

a. consolidate the multiple billings into one health care data record for submittal for the reporting period within which the discharge occurs; or

b. submit each interim billing claim for the reporting period in which the claim is generated.

4. A hospital or ambulatory surgical center may submit health care data directly to DHH, or may designate a third-party intermediary, such as a commercial data clearinghouse. Use of an intermediary does not relieve the health care facility from its reporting responsibility. In order to facilitate communication and problem solving, each facility should designate a contact person and a backup for the contact person. The facility will provide the names, telephone numbers, mailing and electronic-mail addresses, and job titles of the persons assigned this responsibility to DHH on forms provided by the department itself.

C. Confidentiality of Data. Act 537 provides for the strictest confidentiality of data and severe penalties for the violation of the Act. To effectively govern this provision, the Act mandates that DHH ensure confidentiality of patients by enforcing appropriate rules and regulations at least as stringent as the HIPAA Privacy Rule. Any information collected from hospitals or ambulatory surgical centers that identifies a patient or person under whom the patient is insured cannot be released. In addition, physician, facility, payer, or employer identifiers cannot be released without DHH approval. The department needs patient-specific information to complete analyses and will take every prudent action to ensure the confidentiality and security of the data submitted in accordance with state and federal law. Procedures include, but are not limited to, physical security and monitoring, separation of personal identifiers from the analytical file, access to the files by authorized personnel only, passwords, and encryption. Not all measures taken are documented in this rule to further protect the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13113. Health Care Data Submittal—Schedules

A. Each licensed Louisiana hospital which collects inpatient discharge information, as set forth in this rule, shall submit inpatient hospital discharge records to the department

in a manner that complies with the provisions of the guidelines here included for all hospital discharges occurring on or after January 1, 2014.

B. Each licensed Louisiana hospital which collects emergency-services information, as set forth in this rule, shall submit emergency-services records to DHH in a manner that complies with the provisions of the guidelines here included for all emergency services provided on or after January 1, 2015.

C. Each licensed Louisiana hospital-based or non-hospital-based ambulatory surgical center which collects ambulatory surgery information, as set forth in this rule, shall submit ambulatory surgery records to DHH in a manner that complies with the provisions of the guidelines here included for all ambulatory surgery procedures performed on or after January 1, 2016.

D. Submittal Schedules. Hospitals and ambulatory surgical centers (or either facilities' representatives) will generate and submit their health care data to the department according to schedules specified in the *Louisiana Health Care Data Specifications Manual*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13115. Health Care Data Submittal—Use of Data Processing Intermediaries

A. Third-party intermediaries may be utilized by hospitals and ambulatory surgical centers for the delivery of data to the department. Intermediaries must be registered with DHH on registration forms provided by the department itself. Additions and deletions to the intermediary's list of facilities represented must be submitted at least 10 days prior to the submittal schedule reporting due date.

B. Hospitals and ambulatory surgical centers shall notify the department by January 1 of each year if they plan to submit the required data to the department through a third-party intermediary that is registered with the department. Hospitals and ambulatory surgical centers selecting this option are responsible for ensuring that the submitted data conform to specifications contained in the *Louisiana Health Care Data Specifications Manual*. These specifications include, but are not limited to, the format, timeliness, and quality criteria of completeness, validity, and consistency outlined in the manual. The third-party intermediary is responsible to the hospital or ambulatory surgical center for ensuring that the data are submitted to the department in conformance with specifications contained in the manual.

C. The following additional requirements and information apply to intermediaries delivering data to DHH.

1. Data may be delivered in any number of submittals (i.e., one per facility, several facilities combined, or all facilities combined in one submittal), but the minimum unit of data submittal is all records from one facility per submittal time period.

2. Data may be submitted in any approved data format declared at the time of registration.

3. Data may be submitted using any approved transmittal process declared at the time of registration.

4. The intermediary must submit data for three or more facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13117. Health Care Data Submittal—Extensions and Waivers

A. All hospitals and ambulatory surgical centers will submit discharge data in a form consistent with the requirements unless an extension or waiver has been granted. Extensions may be granted when the facility documents that unforeseen difficulties, such as technical problems, prevent compliance. Waivers may be granted when the facility documents the need for data format changes before it can begin collecting and submitting specific data elements. Requests for extensions or waivers shall be in writing and directed to DHH.

1. Extension of Time for Data Submittal

a. Any facility which determines it temporarily will be unable to comply with a data submittal date or with data submittal time lines established in a previously submitted plan of correction may apply to the department for an extension. An application for extension shall be submitted at least 15 working days prior to the data submission deadline. The application for extension shall include specific reasons why the facility cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. The department shall act upon an application for extension of time within 10 working days of receiving the written request. Failure of the department to act on the application shall be deemed as a grant of the extension.

c. Following review of an extension application, the department shall notify the applicant, in writing, of the decision to approve or disapprove the application or modifications required to secure approval of the application. If DHH disapproves an application, it will include in its written notification a statement of the reasons for its decision. Also in the event of disapproval, DHH shall not accept requests for reconsideration as the department's decision shall be considered final.

d. Failure of the facility to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by DHH.

2. Waivers of Data Requirements

a. Any facility which determines it will be unable to comply with any of the provisions of this rule or with the provisions of a previously submitted plan of correction, for submission of particular data elements of the required format, quality, or completeness for specific discharge periods, may apply to the department for a waiver. A data element-based waiver may be granted for the submission of specific data elements for specific durations and does not, in this case, relieve the facility of the obligation to submit other required data elements in a timely manner. A general waiver may also be granted for compliance with the required data format. An application for waiver shall be submitted at least 30 working days prior to the data submission deadline on a form provided by the department. The application for waiver shall include specific reasons why the facility cannot comply with the rule, a specific plan sufficient to correct the problem(s), and the earliest date(s) when the facility will be compliant. Waivers will be granted upon determination of a

satisfactory application during the first year, and as necessary thereafter.

b. The department shall act upon an application for waiver within 20 days of receiving the written request. Failure of the department to act on the application shall be deemed as a grant of the waiver.

c. Following review of a waiver application, the department shall notify the applicant, in writing, of the decision to approve or disapprove the application or modifications required to secure approval of the application. If DHH disapproves an application, it will include in its written notification a statement of the reasons for its decision. Also in the event of disapproval, DHH shall not accept requests for reconsideration as the department's decision shall be considered final.

d. Failure of the facility to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13119. Health Care Data Submittal—Data Errors and Certification

A. Health care facilities will review their respective data records prior to submittal for accuracy and completeness. Correction of invalid records and validation of aggregate tabulation are the responsibility of the facility. All facilities will certify the data submitted for each reporting period in a manner specified by the Department of Health and Hospitals.

1. Error Correction

a. The facility is responsible for submitting accurate and complete data in one of the specified formats. The department, in turn, may identify errors for facility review, comment, and correction when applicable. The records with errors will be identified in a simplified format providing record identification and an indication or explanation of the error. The error report will be sent by electronic mail to the attention of the individual designated to receive the correspondence at the facility.

b. In the event 5 percent or more of the records per facility in a submittal period are in error, the submittal for that facility will be rejected. A record is in error when at least one required data element is missing or in error (excepting those elements for which a waiver has been granted). Notification of the rejection will accompany the error report and will be sent by electronic mail to the attention of the individual designated to receive the correspondence at the facility.

c. After the submittal has been corrected, the submittal is to be resubmitted, in its entirety and original format, to the department within the time frame specified in the manual. This correction cycle may repeat.

2. Certification and Review

a. Following receipt of a data submittal and completion of any needed error correction, the department will send the facility-designated contact a health care data summary report containing the total number of records received for the reporting period, by encounter, and by payer class for each facility.

b. The facility-designated responsible contact will validate, in writing, the accuracy of the health care data summary report and verify that the data sent were complete for that reporting period. Regardless of any waiver granted, the facility will provide an estimate of the number of any unreported encounters for the reporting period. The signed validation will be returned to DHH within 10 working days.

3. Noncompliance

a. Upon written notification of noncompliance from the department, the chief executive officer of the delinquent facility shall have 10 working days following receipt of the written notification of noncompliance to provide the department with a written plan for correcting the deficiency. The plan of correction shall include specific reasons why the facility cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. Failure of the facility to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13121. Health Care Data Submittal—Specifications

A. Health care facilities shall submit data by electronic media as determined by DHH. Data submittals not in compliance with transmittal or format specifications will be rejected unless approval is obtained prior to the scheduled due date from the department. Data-submittal specification updates will be added to the *Louisiana Health Care Data Specifications Manual* and posted on the DHH Web page.

1. Transfer. Data submittal standards shall require the use of electronic transfer of database files (structure to be provided by DHH) via telecommunications. Editing of data prior to submittal is encouraged and assistance from DHH will be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

§13123. Health Care Data Submittal—Data Elements

A. The department shall make available to health care facilities a *Louisiana Health Care Data Specifications Manual* listing and defining the required and conditionally required data elements. Submission of any other data elements is optional; facilities do not need to suppress or strip other elements appearing in their claim files. All elements submitted will be treated confidentially in accordance with state and federal law.

1. Required Data Elements. If a facility is currently or temporarily unable to provide any of the data listed in the manual, the facility must apply for a waiver or extension, as detailed in §13117 of this rule.

2. Revisions to the Manual

a. The department shall notify health care facilities of revisions and/or corrections to the *Louisiana Health Care Data Specifications Manual* according to the National Uniform Billing Committee's (NUBC's) and American National Standards Institute, Accredited Standards Committee (ANSI/ASC) X12's most current implementation schedules for data-specification or electronic-data

interchange (EDI) changes. In turn, facilities shall comply with data-specification and EDI requirements according to the most current version of the manual.

b. The DHH Health Data Panel shall review any new data elements and submit these to the secretary of the department with recommendations.

c. If state or federal law mandates immediate changes to either data specifications or electronic-data interchanges, Subparagraphs a. and b. shall be bypassed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to Robert Starszak, Public Health Epidemiologist, Department of Health and Hospitals, Office of the Secretary, P.O. Box 3013, Baton Rouge, LA 70821-3013. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2013 at 9:00 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Health Care Data Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule repeals LAC 48:V. Chapter 151 governing State Center for Health Statistics in its entirety and amends LAC 48:I, Subpart 5 governing Health Planning to add Chapter 131, entitled Health Care Data Reporting. This rule provides for the reporting of health care data (inpatient, emergency department, and ambulatory surgery) by licensed hospitals and ambulatory surgical centers (ASCs) in the state to the Department of Health and Hospitals (DHH) as required by Act 537 of 2008. It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 2013-2014. It is anticipated that \$1,148 (SGF) will be expended in FY

2013-2014 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensed hospitals and ASCs in Louisiana may incur additional costs related to additional personnel, software acquisition, and/or software-vendor contracts, which DHH is unable to determine for each facility.

The healthcare data DHH will collect, analyze, and disseminate as per the proposed rule will assist Louisiana's health care consumers in making informed choices about their health care options as these relate to specific treatments and procedures, cost-efficiency, and quality, among other factors of interest.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Undersecretary
1309#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Companies in Hazardous Financial Condition
(LAC 37:XIII.Chapter 13)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11, and R.S. 22:2001 et seq., notice is hereby given that the Department of Insurance proposes to amend Regulation 43. The purpose of the amendment is to update the current provisions of Regulation 43 to maintain consistency with the National Association of Insurance Commissioner's (NAIC) model regulation regarding the standards which the Commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 13. Regulation 43—Companies in Hazardous Financial Condition

§1301. Purpose

A. The purpose of Regulation 43 is to set forth the standards which the Commissioner of Insurance ("Commissioner") may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

B. Regulation 43 shall not be interpreted to limit the powers granted the commissioner by any laws or parts of laws of this state, nor shall Regulation 43 be interpreted to supersede any laws or parts of laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:

§1303. Definitions

A. As used in Regulation 43, the following terms shall have the respective meaning hereinafter set forth:

Control—as defined in R.S. 22:691.2(3)

Person—as defined in R.S. 22:691.2(7)

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:

§1305. Standards

A. The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to their policyholders, creditors, or the general public. The commissioner may consider:

1. adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

2. the National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports;

3. ...

4. the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

5. whether the insurer's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

6. whether the insurer's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than 20 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

7. whether a reinsurer, obligor or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations, and which in the opinion of the commissioner may affect the solvency of the insurer;

8. contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

9. whether any "person" in "control" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

10. - 14. ...

15. whether management has established reserves that do not comply with minimum standards established by state

insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice;

16. whether management persistently engages in material under reserving that results in adverse development;

17. whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

18. whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

19. whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the commissioner;

20. any other finding determined by the commissioner to be hazardous to the insurer's policyholders, creditors, or the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:

§1307. Commissioner's Authority

A. - A.1. ...

2. make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates consistent with the NAIC Accounting Practices And Procedures Manual, state laws and regulations;

3. ...

4. increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12 month period.

B. If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to its policyholders, creditors, or the general public, then the commissioner may, upon such determination, issue an order requiring the insurer to:

1. - 9. ...

10. correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the commissioner.

11. provide a business plan to the commissioner in order to continue to transact business in the state.

12. notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the commissioner considers necessary to improve the financial condition of the insurer.

C. If the insurer is a foreign insurer the order issued by the commissioner may be limited to the extent provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:

§1309. Administrative Review

A. An insurer subject to an order under Subsection 1307.B may request an administrative hearing to review that order pursuant to R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:

§1311. Judicial Review

A. An insurer aggrieved by a final decision pursuant to an administrative hearing under R.S.22:2191 shall be entitled to judicial review in accordance with the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

B. Notwithstanding the provisions of Subsections 1309.A and 1311.A, nothing shall preclude the commissioner from initiating judicial proceedings in conservation, rehabilitation, or liquidation proceedings or any other delinquency proceedings, however designated under the laws of the state, regardless of whether the commissioner has previously initiated any regulatory action against the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:

§1313. Severability

A. If any Section or provision of Regulation 43 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 43 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the Sections and provisions of Regulation 43 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:

§1315. Effective Date

A. Regulation 43 shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:

Family Impact Statement

1. Describe the effect of the proposed Rule on the stability of the family. The proposed Rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on the functioning of the family. The proposed Rule should have no direct impact upon the functioning of the family. Describe the effect of the proposed Rule on family earnings and

budget. The proposed Rule should have no direct impact upon family earnings and budget.

4. Describe the effect of the proposed Rule on the behavior and personal responsibility of children. The proposed Rule should have no impact upon the behavior and personal responsibility of children.

5. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the Rule. The proposed Rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The impact of the amendments to Regulation 43 on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed Rule should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed Rule should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed Rule should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed Rule should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Public Comments

Interested persons may submit written comments on the proposed amendments to Regulation 43 until 5 p.m., Wednesday, October 30, 2013, to Walter Corey, Division of Legal Services, Office of the Commissioner, P.O. Box 94214, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed amendments to Regulation 43 will be held Wednesday, October 30, 2013, at 10 a.m., in the Poydras Hearing Room at the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Companies in Hazardous Financial Condition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule change will have no anticipated implementation costs or savings to state or local governmental units. Under the authority of the Louisiana Insurance Code, R.S. 49:950 et seq., R.S. 22:11, and R.S. 22:2001 et seq., the Louisiana Department of Insurance proposes to amend Regulation 43 entitled "Companies in Hazardous Financial Condition". The purpose of the amendment is to update the current provisions of Regulation 43 to maintain consistency with the National Association of Insurance Commissioner's (NAIC) model regulation regarding the standards which the Commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change updates the provisions of Regulation 43 to provide the Commissioner of Insurance with sufficient tools, in line with the NAIC model, to ensure adequate consumer and economic protection to policyholders, creditors and the general public with regard to the financial condition of insurers operating in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change should have no impact upon competition and employment in the state.

Denise Brignac
Deputy Commissioner
1309#105

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Louisiana State University System Louisiana State University Health Sciences Center Louisiana Tumor Registry

Tumor Registry (LAC 48:V.Chapter 85)

Under the authority of Louisiana R.S. 40:1299.80 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the President of the Louisiana State University System has amended a Rule to require the electronic transmission of all cancer reports as well as remote electronic access to relevant medical records where available; set a two-month deadline for reporting by non-hospital sources; require hospitals to identify new diagnoses among those aged less than twenty years old to the registry within one month; allow the registry to publish its annual report electronically on the LTR website only; update the address of the registry; and provide for related matters by supplanting Chapter 85 of

Title 48 of the Louisiana Administrative Code in its entirety with the following.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 31. Louisiana Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

A. Louisiana R.S. 40:1299.80 et seq. established a "statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of cancer incidence, survival rates, possible causes of specific cancers, and other related aspects of cancer in Louisiana." In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, national and international cancer surveillance programs, health care providers and facilities, public health agencies, and research institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2786 (December 2009), LR 39:

§8502. Background

A. In December 1971, President Richard Nixon signed the National Cancer Act (P.L. 92-218). As a result of this act, the Surveillance, Epidemiology and End Results (SEER) Program, a national cancer surveillance program within the National Cancer Institute, was established. Data on cancer incidence and survival were collected in selected states and regions, beginning with cases diagnosed on January 1, 1973. The importance of cancer registration was subsequently reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries within the CDC. Louisiana participates in both cancer surveillance programs.

B. Acts No. 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of health care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters.

C. Acts No. 1138 §2 of the 1995 Session transferred the Louisiana Tumor Registry program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the Louisiana State University Health Sciences Center at New Orleans.

D. Acts No. 197 of the 2001 Regular Legislative Session replaced "Secretary of the Department of Health and Hospitals" and "Secretary" with "President of the Louisiana State University System, or his designee" or "President" and replaced "office of public health in the Department of Health and Hospitals" with "office of the President." It also

mandated the reporting of follow-up information and confirmed the ability of the LTR to release data to qualified researchers and other state cancer registries.

E. Acts No. 225 of the 2003 Regular Legislative Session added benign and borderline tumors of the brain and central nervous system to the reportability list and authorized the LTR to cooperate with other designated national and international cancer surveillance programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2786 (December 2009), LR 39:

§8503. Definitions

Confidential Data—shall include any information that pertains to an individual case, as ordinarily distinguished from group, aggregate, or tabular data. Statistical totals of "0" or "1" may be deemed confidential, case-specific data. Confidential, case-specific data include, but are not limited to, primary or potential personal identifiers. In addition, in research involving data contained in the National Center for Health Statistics database, statistical totals of 5 or less are also deemed confidential data and are suppressed unless prior written consent of all of the affected respondents has been obtained in accordance with 42 U.S.C. §242k(1); 5 U.S.C. §552(a); and <http://www.cdc.gov/nchs/data/misc/staffmanual2004.pdf> (p. 16).

Director—the director of the Louisiana Tumor Registry, who is appointed by the President of the Louisiana State University System.

Health Care Provider—every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(10), in the state of Louisiana, as well as out-of-state facilities and providers that diagnose and/or treat Louisiana residents.

Follow-Up Information—information that is used to document outcome and survival for all types of cancer. The information includes, but is not limited to, patient identifiers, treatment and recurrence, vital status, and date of last contact. If the patient is deceased, date of death and causes of death are included.

Louisiana Tumor Registry/LTR—the program in Louisiana State University System that administers a population-based statewide cancer registry.

Regional Tumor Registry—an organization that is contracted with the Louisiana Tumor Registry (LTR) to provide in its region such services as: screening all possible sources to identify reportable cases, abstracting required information on all reportable cases, obtaining current follow-up information, editing data, performing quality assurance programs, training personnel from hospitals and other reporting facilities, and furnishing electronic records of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public

Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009), LR 39:

§8505. Responsibilities of Health Care Facilities and Providers

A. All hospitals, pathology laboratories, radiation centers, physicians, nursing homes, hospices, other licensed health care facilities and providers as defined in R.S. 40:1299.41(A)(10) shall report all reportable cases (see §8507.A) to the LTR, a public health authority. In addition, they shall provide information for all cancer-related studies conducted by the cancer registry program. Health care facilities and providers shall report cases regardless of whether the patient is a resident of Louisiana or of where the patient was originally diagnosed and/or treated. As needed for surveillance or cancer studies, the LTR shall have remote electronic access, where available, or physical access to all medical records and related diagnostic material.

B. The LTR is mandated to conduct cancer studies and may request additional information and diagnostic material in order to carry out these studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009), LR 39:

§8507. Case Reporting

A. Reportable Cases. Any in situ or invasive neoplasm, as designated by the most recent edition of the *International Classification of Diseases for Oncology*, published by the World Health Organization, is considered a reportable diagnosis. In addition, benign and borderline tumors as well as other neoplasms mandated by the LTR or its funding agencies shall be considered reportable. The LTR may require the reporting of precursor lesions for special surveillance programs. Details are available at the LTR website.

B. Transmission and Format for Reporting.

1. All reports are to be transmitted electronically.

2. Facilities without electronic medical records must submit hard copies.

3. The LTR will stipulate the format for reporting, the required codes, and the format for transmitting data by all hospitals, pathology laboratories, radiation centers, physicians, nursing homes, hospices, and other licensed health care facilities and providers.

4. Diagnosis-related material shall be sent to the Louisiana Tumor Registry if requested.

C. Data Quality. Data must meet the quality standards defined by the LTR. Data submissions of unacceptable quality will be returned for correction and must be resubmitted as specified by the LTR. Adequate text must accompany all coded data items to ensure data quality.

D. Variables to be Reported.

1. At a minimum, the reports from non-hospital reporting sources shall include the demographic, diagnostic, treatment, and follow-up information required by U.S. Public Law 102-151. Hospital-based reporters must use the standard variables and codes established by the North American Association of Central Cancer Registries. A complete list of data items is available on the LTR website. Additional variables may be requested as needed to carry out the full mandate of registry operations, including Louisiana-specific cancer studies and meeting the requirements of the LTR funding agencies.

E. Deadlines for Reporting.

1. Hospitals must submit completed cancer abstracts within six months of diagnosis or first contact with the patient for that cancer.

2. Pathology laboratories, radiation centers, physicians, and other licensed health care facilities and providers, shall report cancer cases, as defined in Section 8507A, within two months of diagnosis or of the facility's first contact with that patient for cancer.

3. Hospices and nursing homes shall identify cancer cases and provide hard copies of medical records as requested.

4. In addition, providers shall notify the LTR within one month if they diagnose any cancer patient under age twenty years old.

F. Failure to Report. If a facility fails to meet the deadline for reporting in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In such situations, the facility shall reimburse the Louisiana Tumor Registry or its contractor \$45 per case or the actual cost of screening, abstracting, coding, and editing, whichever is greater.

G. Quality Assurance

1. Staff members from the central registry, the regional registries, and national cancer surveillance programs designated by the LTR shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

a. rescreening medical records to ensure that all reportable cases have been identified;

b. reabstracting the records of patients to ensure that all data have been abstracted and coded correctly.

2. Reporting facilities shall assist LTR staff by compiling a list of cancer patients in the format required by the LTR and by obtaining the necessary medical records.

H. Follow-Up. Current follow-up, as defined in §8503, is required for all cases. Health care facilities and providers will supply this information when requested.

I. External Linkages. LTR data may be linked with external databases in order to improve the accuracy and completeness of data or for research. All linkages shall be carried out in compliance with LTR confidentiality rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 0:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health

Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009), LR 39:

§8509. Confidentiality

A. R.S. 40:1299.85 and 1299.87 of Acts 1995, No. 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of patients, health care providers, and reporting facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability. They also specify the confidentiality requirements of the Louisiana Tumor Registry.

B. Louisiana Tumor Registry policies and procedures comply with the standards of the Health Insurance and Portability and Accountability Act (HIPAA). The Office of Civil Rights has determined that releases of confidential data to state-mandated cancer registries do not require patient consent, since the registries serve as public health authorities.

C. LTR Responsibilities. The President or his or her designee shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees, consultants, and contractors of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data" each year, and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

D. Protection of Reporting Sources. Health care providers and facilities that disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

E. Protection of Case-Specific Data Obtained by Special Morbidity and Mortality Studies and Other Research Studies

1. Louisiana R.S. 40:3.1(A) through (H) and R.S.40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for statistical, scientific and medical research purposes. This applies also to data procured by employees or agents of the Louisiana Tumor Registry or organizations, including public or private college universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies.

2. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2838 (December 2004), amended by LSU System,

Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009), LR 39:

§8511. Release of Information

A. Confidentiality of published data

1. Reports published or presented by the Louisiana Tumor Registry shall include aggregate, not case-specific, data.

2. Information that would potentially identify a patient or a health care provider or facility shall not be disclosed, except to qualified investigators currently approved by both the LTR and the LSUHSC Institutional Review Board.

B. Diagnostic, Treatment, and Follow-Up Information. Diagnostic, treatment, and follow-up information about a patient shall be provided, if requested, to a physician or medical facility diagnosing or treating the case. Section 45 CFR 164.506 of the Health Information Portability and Accountability Act (HIPAA) allows such sharing of health information.

C. Collaboration with Federal and State Public Health Agencies and National and International Cancer Surveillance Programs.

1. The LTR is authorized to collaborate with the National Cancer Institute, the Centers for Disease Control and Prevention, and other national and international cancer surveillance programs designated by the LTR, including but not limited to the North American Association of Central Cancer Registries and the International Agency for Research on Cancer, in providing cancer data and participating in cancer studies.

2. In addition, the LTR shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer concerns and other cancer-related issues. LOPH requests for case-specific data will require annual approval by the Institutional Review Board of the Louisiana State University Health Sciences Center-New Orleans (LSUHSC-New Orleans). In addition, the LOPH must comply with LTR confidentiality standards, and reports written for public release using Registry data must be reviewed by the Registry in advance.

3. The use of Registry data by LOPH officials, who sign an annual agreement to maintain the confidentiality of registry data, shall be considered an in-house activity and shall be processed expeditiously.

D. Requests for Case-Specific LTR Incidence Data. Case-specific data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include information collected for special studies or other research projects.

1. The LTR reserves the right to prioritize its responses to data requests.

2. Requests from researchers for case-specific LTR incidence data, including data linkages, must be submitted in writing and shall be reviewed and approved by the LTR Data Release Committee following the established policies of the Louisiana Tumor Registry. A detailed description of the policies and procedures for requesting Registry data can be obtained from the LTR website. These established policies include, but are not limited to, the following requirements:

a. approval from the LSUHSC-New Orleans Institutional Review Board and compliance with the LSUHSC-New Orleans HIPAA research policy as well as approval from the researcher's Institutional Review Board

and compliance with that institution's HIPAA research policy;

b. signature of the LTR "Agreement to Maintain Confidentiality of Data" by all investigators who will have access to the data, agreeing to adhere to the LTR confidentiality provisions and prohibiting the disclosure of LTR data in any civil, criminal, administrative, or other proceeding;

c. provision of a copy of the complete protocol for the project;

d. completion of all requirements listed in the document on the LTR website.;

e. notification of physician, if required, before contacting patients or their next-of-kin;

f. destruction or return of data once the research is completed.

2. LTR Data Release Committee. The research committee shall be coordinated by the director of the LTR or designee and may include, but not be limited to, the director of the LTR and a qualified LTR representative. The committee will verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific and ethical merit; that all appropriate confidentiality protections are in place; and that appropriate consent will be obtained.

E. Requests for Aggregate Data

1. Data requested by the Louisiana Office of Public Health for responding to concerns about threats to the public health shall receive priority in determining the order of processing requests.

2. Subject to the provisions of the Louisiana Public Records Act, R.S. 44:4.1 et seq., other requests for aggregate data shall be processed in the order of their receipt. The Registry shall respond to public requests in as timely a manner as resources permit, provided that these requests meet certain requirements in conformity with R.S.40:3.1(A) and (F) and R.S.40:1299.87(F) et seq.

3. Those requesting data may be asked to reimburse the LTR for actual costs for compiling and providing data. In no event shall the LTR be obligated to perform original work to create data not currently in existence.

4. The parish (county) is the smallest geographic area for which aggregate data may be released.

F. Annual Report. A statistical report shall be prepared and made available on the LTR website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7). HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Louisiana Register Vol. 35, No. 12 December 20, 2009 Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2839 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009), LR 39:

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or treated in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data

concerning Louisiana residents and, in return, to provide those states with cancer data relating to their residents. Each signatory state shall agree in writing to follow standard procedures to safeguard patient confidentiality and ensure data security.

B. Before the release of any confidential information to other state cancer registries, an Interstate Data Exchange Agreement shall be executed by a representative of the other state registry who is authorized to legally obligate the registry and by a representative of the Louisiana State University System.

§8515. Contact Information for the Louisiana Tumor Registry

Louisiana Tumor Registry
2020 Gravier St, 3rd Floor
New Orleans, LA 70112
phone: 504/568-5757
fax: 504/568-5800
website: <http://louisianatumorregistry.lsuhs.edu>

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2840 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2790 (December 2009), LR 39:

Family Impact Statement

The proposed Rules of the Louisiana Tumor Registry should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed changes to the Louisiana Tumor Registry legislative rules will have no effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits;
5. child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Public Comments

The proposed revisions to the Louisiana Tumor Registry legislative rules comply with R.S. 40:1299.80 et seq., which authorizes the registry to monitor the incidence of cancer in Louisiana.

All interested persons are invited to submit written comments on the proposed regulations. Such comments must be received no later than December 9, 2013, at 4:30 p.m. and should be sent to Patricia A. Andrews, Louisiana Tumor Registry, 2020 Gravier St, 3rd Floor, New Orleans, LA 70112. Comments may also be faxed to 504/568-5800, phoned to 504/568-5795 or 504/568-5757, or e-mailed to pandre@lsuhsc.edu.

Xiao-Cheng Wu, MD, MPH, CTR
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tumor Registry**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will increase state expenditures at the Louisiana Tumor Registry (LTR) by an estimated \$1,000 in Fiscal Year 2013-2014 to publish the proposed rules. The proposed rule changes provide for electronic transmission of cancer reports, electronic access to medical records by the LTR, deadlines for reporting, codifies the current LTR practice of electronically publishing specified annual reports, and updates the contact information of the LTR. The LTR has eliminated printing and distribution costs through electronic publication of annual reports for the past three fiscal years. Electronic transmission of cancer reports may result in less travel by LTR staff to retrieve medical records, resulting in nominal anticipated cost savings. The proposed rule changes have no impact on costs at local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no impact on revenue collections of state or local governmental units. The proposed rules do not change the amount that the Registry can charge hospitals or healthcare facilities for complying with the reporting requirements in existing law.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are not anticipated to produce significant compliance costs or economic benefits for affected hospitals, healthcare providers, or other affected parties or groups. Healthcare facilities are generally eligible to receive federal funding to adopt interoperable electronic health records. Electronic records will facilitate expedited processing and the availability of data to researchers, which may yield indeterminable economic benefits to corporations and individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no impacts on competition and employment.

Xiao-Cheng Wu, MD
Director
1309#014

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Disciplinary Rules and Procedures for Adult Offenders
(LAC 22.I:Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Chapter 3, Disciplinary Rules and Procedures for Adult Offenders.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2013.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disciplinary Rules and
Procedures for Adult Offenders**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no anticipated implementation costs to state or local governmental units. The proposed rule change is a technical revision to the existing department Disciplinary Rules and Procedures for Adult Offenders (Rule Book) and would only affect those in violation or charged with observing, reporting or disciplining violations. The book rescinds and supersedes the previous rule book dated August 2008 and any subsequent revisions. Federal law requires all states to be in compliance with the Prison Rape Elimination Act of 2003 (PREA) standards by August 20, 2013. One of the standards requires the change in the definitions of the disciplinary rule regarding aggravated sex offenses to comply with the PREA standards. Therefore, the department is required, pursuant to the enactment of these laws and rules, to take certain affirmative acts such as promulgating the instant regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1309#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Drug-Free Workplace (LAC 22.I.207)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 207 Drug-Free Workplace.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 2. Personnel

§207. Drug-Free Workplace

A. Purpose—to provide a comprehensive program of substance abuse education and to establish guidelines for employee drug and alcohol testing.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, director of probation and parole and director of prison enterprises. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its contents to all concerned.

C. Policy. Substance abuse is a major contributor to criminal activity and is particularly detrimental to the department's mission to provide for the safety of employees and the public. Employees who engage in substance abuse may not be able to perform the essential functions of their positions and may be less likely to enforce policies and procedures effectively to control or to prevent illicit drug and alcohol use by other employees and offenders. Therefore, it is the secretary's policy to promote increased employee awareness of substance abuse and to achieve and maintain a workplace free of drugs and alcohol.

D. Definitions

CAP-FUDD-Certified Laboratory—a laboratory certified for forensic urine testing by the College of American Pathologists.

Collection Site—a designated place for the employee to provide a urine specimen to be analyzed for the presence of drugs.

Custodian of Records—a staff person responsible for the direct accountability of drug test results.

Drug Testing—

a. for the purpose of this regulation, drug testing programs shall be comprised of two testing components:

i. preliminary analysis (using the testing instrument available on the current contract issued by the procurement and contractual review division and approved by the secretary) and

ii. formal testing.

b. The application of formal testing may be contingent upon the results of the preliminary analysis. Alcohol testing consists only of administering the approved test and replicating any positive results.

Employee—any individual employed by or appointed to a position with corrections services (including student workers and temporary appointments and, for the purpose of this regulation, employees of Allen Correctional Center and Winn Correctional Center) or by an outside agency or provider who works in an institution or division or any individual under contract with corrections services who works in an institution or division.

a. (This does not necessarily confer “employment” status on independent contractors or employees of outside agencies, but serves to define a class of people who are subject to participation in the drug-free workplace program).

Formal Testing—a second analytical procedure following a positive result on a preliminary analysis to identify the presence of a specific drug which is independent of the preliminary analysis using a different technique and/or chemical principle. Formal testing is conducted by a CAP-FUDD or SAMSHA-certified laboratory.

Medical Review Officer (MRO)—a licensed physician designated by the unit head who is responsible for receiving positive preliminary analysis results. The MRO must possess knowledge of substance abuse disorders and appropriate medical training to determine and evaluate an individual's positive result together with his medical history and other relevant biomedical information.

Offender—anyone in the physical custody of the Department of Public Safety and Corrections or under the supervision of the Division of Probation and Parole.

Preliminary Analysis—an immunoassay screen to detect the presence of drugs or metabolites using approved drug testing instruments. (See section H.1. for additional information). The results of the preliminary analysis are to be used solely to indicate the need for additional formal testing, except for those who are being tested for pre-employment purposes. In this case, when the preliminary analysis is positive, it shall be sufficient cause to either remove the prospective employee from consideration for employment or appointment or be cause for conducting formal testing. If formal testing is conducted and the result is positive, this shall be cause for the prospective employee's elimination from consideration for employment or appointment.

Safety/Security Sensitive Position—any job which directly or indirectly affects the safety and security of others. For the purpose of this regulation, safety/security sensitive positions are those which involve direct contact with offenders and those having access to confidential information relative to the care, confinement or supervision of offenders.

SAMSHA-Certified Laboratory—a laboratory certified for forensic drug testing by the Substance Abuse and Mental Health Services Administration.

SAMSHA Guidelines—the mandatory guidelines for federal workplace drug testing programs as published in the Federal Register on April 11, 1988 (53 FR 11970, revised on June 9, 1994 (59 FR 29908), further revised on September 30, 1997 (62 FR 51118) and any further revised guidelines issued by SAMSHA.

Unit Head—the head of an operational unit, specifically, the undersecretary, warden, director of probation and parole and director of prison enterprises.

E. General. Each unit head is responsible for implementation of a substance abuse education program that requires compliance with this regulation. Each employee is responsible for refraining from illegal use, possession, sale or manufacture of controlled substances and from reporting to work or working while under the influence of alcohol, illegal drugs or impaired by prescription drugs.

F. Type of Testing

1. Pre-Employment. Drug testing shall be conducted prior to employment. (See Paragraph D.9 for additional information). The unit human resources office is responsible for ensuring all new employees are given a copy of this regulation upon hire. All new employees shall sign and date the Receipt of Drug-Free Workplace Regulation. A copy of this form shall be maintained in the employee's personnel file.

2. Reasonable Suspicion/Probable Cause. Reasonable suspicion/probable cause screening and subsequent testing, as appropriate, may be based on:

- a. observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol or when the odor of alcohol, marijuana smoke or other substance is present;
- b. abnormal conduct or erratic behavior;
- c. arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking (the term "trafficking" shall also mean "distribution");
- d. information provided by reliable and credible sources or independently corroborated;
- e. newly discovered evidence that the employee tampered with a previous drug or alcohol test;
- f. Credible allegation or confirmation of involvement in a significant violation of policy in which judgment may have been impaired.

3. Post Accident. An employee shall be subject to drug testing following an accident that occurs during the course and scope of their employment that:

- a. involves circumstances leading to a reasonable suspicion of the employee's drug use;
 - b. results in a fatality; or
 - c. results or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).
- i. An employee who is involved in an accident that results in bodily injury or property damage may be subject to drug testing.

4. Rehabilitative. Staff testing positive without a legitimate explanation and whose employment is not terminated shall be subject to participation in a rehabilitation program. As a condition for returning to work after participating in such a program, the employee must agree to follow-up testing on a random basis for up to 48 months. (Additionally, medical professionals who are participating in a rehabilitation program, substance abuse aftercare program or who have a documented substance abuse history must agree to periodic drug/alcohol testing throughout the course of their employment).

5. Random. All employees who occupy safety/security sensitive positions (as defined in this regulation) shall be subject to random drug testing. On a monthly basis, a list of employee numbers representing at least five percent of a unit's employees shall be selected at random by a computer-generated selection process. This list shall be provided to each institution, the division of probation and parole, division of prison enterprises and headquarters.

a. The office of information services shall generate the list of employee numbers at the prescribed interval and ensure that the lists are distributed directly to each unit head.

i. (Alternatively, if a unit has a drug-testing services contract with a CAP-FUDT or SAMSHA-certified laboratory, the production of this list may be included as part of those services).

b. Unit heads shall establish a policy for matching the employee numbers to employee names, notification of selected employees, recording of test results and other appropriate procedures as needed.

c. All tests shall be conducted during the selected employees' work hours; no employee shall be called in on his day/night off specifically for the purpose of a random drug test.

d. The conduct of this program shall be in accordance with section H. of this regulation.

6. Promotion. Drug testing shall be conducted prior to promotion.

G. Substances to be Tested. In accordance with R.S. 49:1005, drug testing may be performed for any of the following classes of drugs: marijuana; opiates; cocaine; amphetamines; and phencyclidine in the random testing or preliminary testing process. This does not preclude testing for any other illegal drugs (e.g. methamphetamines,) alcohol, or abused prescription medication if there is reasonable suspicion or probable cause.

H. Conduct of the Drug Testing Program

1. Preliminary Analysis

a. The testing instrument available on the current contract issued by the procurement and contractual review division and approved by the secretary shall be utilized as a preliminary analysis to determine the need for further testing, but may not be used as the basis for any disciplinary action or other adverse action. The collection process shall be done on-site by unit staff who have received the appropriate training. (Formal testing may be utilized initially in lieu of preliminary analysis when the unit head or designee determines that this is the most efficient method).

b. When the test produces a positive result, the MRO shall be notified. The MRO shall obtain a list of medication used by the employee at the time of the test and

shall give the employee the opportunity to provide a medical history and/or discuss the test results.

c. Upon review and evaluation of all available information, the MRO shall determine the need for formal testing.

d. If formal testing is deemed necessary by the MRO, the employee shall be escorted to a collection site by a unit staff person.

e. Pursuant to section D.9. of this regulation, it is not mandatory that the MRO review the results of a pre-employment preliminary analysis which results in a positive finding.

f. All employee preliminary testing shall be reported on the Employee Drug/Alcohol Field Test.

2. Formal Testing

a. Formal testing shall be conducted by a CAP-FUDT or SAMSHA-certified laboratory and shall be performed in compliance with SAMSHA guidelines.

b. All urine specimens for drug testing shall be collected, stored and transported in strict accordance with SAMSHA guidelines. The cut off limits for drug testing shall also be in accordance with SAMSHA guidelines with the exception of initial testing for marijuana. The initial cut off level for marijuana shall be no less than 50 nanograms/ML and no more than 100 nanograms/ML as specified by the testing entity.

c. In the event of a positive result on a formal drug test, the laboratory's staff shall provide a copy of the results to the employee and to the unit head.

1. Conduct of the Alcohol Testing Program

1. Pursuant to established policy and procedures, employees are prohibited from reporting for or being on duty under the influence of alcohol or other intoxicants (or when the odor or effect is noticeable.) Towards this end, employees may be required to submit to alcohol testing while on duty under circumstances defined in section F.

2. A portable breathalyzer or other instrument and approved by the secretary shall be used to determine a violation of this regulation. In the event of a positive reading on the portable breathalyzer, a second test shall be conducted.

3. The alcohol test can be administered only by those persons specifically authorized by the unit head and who have been trained in the use of the testing instrument(s).

J. Training Required. A minimum of one hour of training per year on the effects and consequences of controlled substance abuse on personal health and safety at the workplace and indicators of substance use or abuse is required for all full time employees.

K. Record Keeping and Reporting Requirements

1. The custodian of records designated by each unit head shall maintain a record of each employee who has submitted to a drug or alcohol test, the date of such test, the name of the person performing the test, the number of tests performed and a summary of the results of each type of test.

2. All test results shall be retained for a minimum of three years after the employee resigns, retires or is dismissed from employment.

3. Pursuant to R.S. 49:1012, all information, interviews, reports, statements, memoranda and/or test results received through the unit's drug testing program are confidential communications and may not be used or

received in evidence, obtained in discovery or disclosed in any public hearing or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. All such confidential information shall be maintained in a secure manner.

4. A monthly report utilizing the Employee Drug Testing Report of drug testing activities shall be compiled by the headquarters human resources office for submission in the C-05-001 report.

5. By November 1st of each year, each unit's business office shall submit a report to the headquarters human resources office detailing the number of employees affected by the drug testing program, the categories of testing conducted, the associated costs of testing and the effectiveness of the program. In conjunction with the undersecretary's office, the headquarters human resources office shall compile the department's annual Employee Drug Testing Report for submission to the Division of Administration by February 1, 2009 and annually thereafter by December 1st.

L. Impaired Ability Due to Prescription or Over the Counter Medication

1. Employees in safety/security sensitive positions are required to notify their immediate supervisor when they are taking medication which may affect their ability to perform the essential functions of the job prior to the start of their work day/shift.

2. Upon notification, supervisors must immediately contact the unit's MRO or designee to determine if the employee can safely perform the job duties while under the influence of the stated medication.

3. Employees who may cause a direct threat to the safety and security of the public, staff or offender population while under the influence of such medication shall not be allowed to complete the workday and shall be placed in enforced sick leave.

M. Violation of this Regulation

1. The disciplinary penalties and guidelines shall be utilized in the administration of this regulation. Refusal to submit to testing may result in disciplinary action. Formal testing with positive results may be cause for initiation of disciplinary action.

2. When confirmed positive formal test results do not result in termination, referral to the employee assistance program or other individual or agency equipped to coordinate accessibility to substance abuse education or counseling is appropriate and may be made.

3. Any time there is a reasonable suspicion that any employee is impaired and could be a direct threat or cannot safely perform their essential functions due to the use of drugs (prescribed or other) or alcohol consumption, the employee shall be immediately removed from the employee's work station and taken to a secure location (away from any possible contact with offenders) for preliminary or formal testing.

4. If any employee tests positive for drugs or alcohol during either the random, preliminary or formal testing, the employee will be placed on appropriate leave status and escorted off the premises. If impaired, assistance shall be provided to ensure the employee is transported to a safe location. The employee shall not be allowed to return to

work until the condition is resolved or no earlier than the next scheduled work day if the unit head or designee so approves the return to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:522 (March 1999), amended LR 26:1308 (June 2000), LR 35:958 (May 2009), LR 39:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2013.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Drug-Free Workplace

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures. The proposed rule change amends the current regulation regarding the Department's policy and procedures on a Drug-Free Workplace and would only affect any individual employed by or appointed to a position with Corrections Services (including student workers and temporary appointments and, for the purpose of this regulation, employees of Allen Correctional Center and Winn Correctional Center) or by an outside agency or provider who works in an institution or division or any individual under contract with Corrections Services who works in an institution or division. Adjustments to the current regulation include the definition of safety/security sensitive position and the addition of the notification requirement of an employee in a safety/security sensitive position when taking medications that may affect their ability to perform functions of their job.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1309#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Commercial Driving Schools and Instructors (LAC 46:XXXIV.Chapters 1-5)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles hereby proposes to repeal LAC 46:XXXIV.Chapters 1-5. LAC 55:III.143-159 were amended in August 2012, and again in December 2012, to implement Act 475 of the 2012 Regular Session, which increased the age that first-time driver's license applicants have to take the 30-hour classroom course and an 8-hour behind-the-wheel course to be licensed from 17 to 18 years of age. Furthermore, Act 475 limited the 8-hour behind-the-wheel instruction to 4 hours per day per student and added a requirement that those over the age of 18 must have 8 hours of behind-the-wheel training in addition to the existing 6-hour classroom instruction. Furthermore, the Office of Motor Vehicles added a military exemption to allow for active duty military status persons to submit proof of successful completion of military driver training in lieu of the completion certificate currently required for third-party testers. The Office of Motor Vehicles additionally amended these rules in LAC 55:III.143-159 to provide for an affidavit from secondary/alternative schools to submit in substitution for taking an additional criminal background check when they have already taken one as a result of their employment at the school when applying for a driving school instructor license for a secondary/alternative school. In addition, the Office of Motor Vehicles amended these articles to provide further clarification to the third-party tester requirement as mandated by Act 307 of the 2011 Regular Session. Therefore, the Office of Motor Vehicles hereby proposes to repeal the articles under LAC 46:XXXIV in order to comply with LAC 55:III.143-159 relative to commercial driving schools and instructors.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIV. Commercial Driving Schools and Instructors

Chapter 1. General Provisions

§101. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:22 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§103. General Regulations and Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§105. Revocation or Suspension

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§107. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

Chapter 3. Driving Schools

§301. Application for Original Commercial Driving School License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:22 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§303. Changes in Officers or Addresses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§305. Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§307. Location

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§309. Office Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§311. Commercial Driving School Name

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§313. Branch Offices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§315. Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, R.S. 12:446 (July 1986), repealed LR 39:

§317. Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§319. Insurance and Safety Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§321. Program of Instruction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

Chapter 5. Driving Instructors

§501. Application for Instructor's Certificate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§503. Carrying Certificates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

§505. Instructor Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 39:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the Department of Public Safety and Corrections, Office of Motor Vehicles adverse impact of the proposed Rule on poverty.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have any adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments or requests for public hearing on these proposed rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6103 (phone); (225) 925-3974 (facsimile). Comments will be accepted through the close of business, October 15, 2013.

Public Hearing

A public hearing will be held on Tuesday, October 29, 2013 at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments are not received, the hearing will be cancelled.

Please call and confirm the hearing will be conducted before attended.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Commercial Driving Schools and Instructors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in state or local government costs or savings. The proposed rule change repeals the rule in Title 46 relative to Commercial Driving Schools and Instructors at public high schools. The rule pertaining to Commercial Driving Schools and Instructors at public high schools is currently stated in Title 55 since the Office of Motor Vehicles began regulation of public high school driving schools and instructors in 2011.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no anticipated costs or economic benefits to the owners and instructors of commercial driving schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not impact competition and employment.

Jill Boudreaux
Undersecretary
1309#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Compulsory Insurance (LAC 37:VII.123 and 129; LAC 55:III.1717)

Editor's Note: The following Notice of Intent is being repromulgated to correct submission errors. The original Notice can be viewed in its entirety in the August 20, 2013 *Louisiana Register* on pages 2377-2378.

In accordance with the provisions of R.S. 32:863, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles hereby proposes to repeal LAC 37:VII, Chapter 1, Subchapter B, §123 and §129, and to adopt LAC 55:III, Chapter 17, Subchapter A, §1717, to update the Rule on the collection of the administrative fee under the compulsory insurance law for failure to maintain the required liability insurance as is reflected current law. The previous law tied the collection of the administrative fee to the driver's license while current law ties the administrative fee to the reinstatement of the vehicle registration privileges.

**Title 37
INSURANCE**

Part VII. Motor Vehicles

Chapter 1. Insurance

Subchapter B. Compulsory Motor Vehicle Liability Security

§123. Maintenance of Compulsory Motor Vehicle Liability Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:861.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 4:297 (August 1978), repealed by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 39:

§129. Compulsory Insurance Hardship License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:602 (September 1986), amended 13:667 (November 1987), repealed LR 39:

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

Subchapter A. General

§1717. Owner and Driver Compliance

A. Each person who applies for registration of a motor vehicle, or applies for a driver's license, shall declare, in writing, on a form provided by the department that all motor vehicles registered in such person's name are covered by security as required by R.S. 32:861, and that such person intends to maintain said security at all times while said vehicle is used upon the highways of Louisiana.

B. In accordance with R.S. 32:863(D)(5), the department shall collect an administrative fee of \$25 to offset the administrative costs of the department whenever an individual reinstates his registration privileges after such registration privileges were revoked in connection a reported cancellation of a motor vehicle liability insurance policy in accordance with R.S. 32:863(A)(3)(a).

1. This administrative fee shall be in addition to the reinstatement fee required by R.S. 32:863(A)(3)(a).

2. The administrative fee shall be collected for each reported insurance cancellation when the registration privileges are reinstated even if multiple cancellations on one or more vehicles are being reinstated at one time.

3. No administrative fee will be collected if the owner submits proof satisfactory to the department that there was no lapse in coverage or the person provides proof satisfactory to the department that such person sold or otherwise transferred the vehicle prior to the date the motor vehicle liability insurance was cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:862 and 32:863.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 39:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy.

Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Poverty Impact Statement

The proposed Rule amends LAC 55:III.325. These Rule changes should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than October 15, 2013, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6103, Fax:(225) 925-3974, or stephen.quidd@dps.la.gov.

Public Hearing

A public hearing is scheduled for October 23, 2013, at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Compulsory Insurance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change is not anticipated to result in state or local government costs or savings. The proposed Rule

change updates the Rule regarding the collection of the \$25 administrative fee for the reinstatement of registration privileges after a lapse in insurance coverage to reflect current procedures for the assessment of the fee. This also repeals old provisions which are no longer consistent with statutory authority.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as a result of this Rule change. The \$25 administrative fee is currently being collected and the Rules are being updated to match current statute.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no anticipated costs or economic benefits to vehicle owners regarding compliance with the compulsory insurance law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule changes will not affect competition and employment.

Jill Boudreaux
Undersecretary
1309#102

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Towing, Recovery and Storage
(LAC 55:I.1905, 1907, 1913, 1917, 1919, 1921,
1927, 1929, 1931, 1939, 1941, 1943, and 1947)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1711 et seq., gives notice of its intent to promulgate multiple and varied amendments to the regulatory requirements regarding the towing and storage industry. The sections to be amended are listed above.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing, Recovery, and Storage

Subchapter A. Authority, Exemptions, Definitions, Scope

§1905. Definitions

A. The definitions found in the Louisiana Highway Regulatory Act, specifically R.S. 32:1 and the Towing and Storage Act, specifically, R.S. 32:1711 et seq., are applicable to these rules and shall have the same meaning indicated unless the context clearly indicates otherwise.

* * *

Non-consensual Storage—the storage or possession of a vehicle by an individual or storage facility operator without prior consent or authorization of the vehicle's owner or operator for the purpose of charging fees or obtaining ownership. Prior consent or authorization shall be documented by the storage facility by providing a written storage contract as outlined in R.S. 32:1722(C).

Non-consensual Towing—shall mean the movement or transportation of a vehicle by a tow truck without the prior consent or authorization of the owner or operator of the vehicle. This includes private property tows and tows made

by law enforcement or other public agencies. A tow initiated by a call from a law enforcement or other public agency at the request of the owner or operator shall be considered nonconsensual unless the tow truck operator is able to prove the owner or operator agreed to the tow fee and the destination of the tow prior to the tow.

* * *

Place of Business—a permanent structure located within Louisiana used for business, staffed during regular business hours, equipped with phone and utility services including water, sewer, and electric, and houses records and other appropriate or required documents.

* * *

Tow Truck—a motor vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, under-reach equipment, and/or similar equipment including, but not limited to, trucks attached to trailers, and car carriers designed for the transportation and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:854 (May 2006), amended LR 36:2575 (November 2010), LR 39:

§1907. Administrative Penalty Assessment; Arbitration; Recovery of Penalties

A. - A.3. . . .

4. Schedule of Fines

Schedule of Fines	
The following range of fines will be set for violations cited under the corresponding sections. When citing specific violations, the department will set the fine within the corresponding range.	
Exemptions and Other Laws (§1903, 1905, and §1909)	\$50-\$500
Code of Conduct (§1911)	\$100-\$500
Tow Truck License Plate (§1913)	\$50-\$500
Insurance Requirements (§1915)	\$50-\$500
Driver's License Required Skills (§1917)	\$50-\$500
Tow Truck Lighting; Equipment (§1919)	\$25-\$100
Required Equipment (§1921)	\$25-\$100
Capacities of Tow Equipment (§1923)	\$100-\$500
Tow Truck Load Limitations (§1925)	\$100-\$500
Inspections by the Department (§1927)	\$100-\$500
Towing Service to Use Due Care (§1929)	\$100-\$500
Vehicles Towed from Private Prop. (§1930)	\$200-\$500
Storage Facility; Licensing Requirements (§1931)	\$100-\$500
Requirements for ORSV (§1933)	\$100-\$500
Schedule of Fines	
The following range of fines will be set for violations cited under the corresponding sections. When citing specific violations, the department will set the fine within the corresponding range.	
Owner Notification of Stored Vehicle (§1935)	\$100-\$500
Administrative Fees (§1937)	\$100-\$500
Permits to Sell and Dismantle (§1939)	\$100-\$500
Towing/Storage Facilities Requirement (§1941)	\$50-\$500
Storage Rates (§1943)	\$100-\$500
Gate Fees (§1945)	\$100-\$500
Law Enforcement Rotation Lists (§1947)	\$50-\$500

5. Effective January 1, 2014 suspensions may be imposed on a third or subsequent violation when a towing or storage facility has been found in violation on at least two

prior and separate inspections within a 12-month period. Suspensions shall be a minimum of 30 days. Violations of these rules or the Towing and Storage Act during the suspension or a violation of the terms of the suspension shall result in an automatic revocation of the storage license.

6. Effective January 1, 2014 revocations may be imposed when a storage facility has met the requirements for a second suspension within a 3-year period. The immediate revocation of a storage license may be imposed when a towing or storage facility is determined by the inspecting officer to not have the proper insurance as required by this Chapter or is in violation of "Dutiful Conduct" as found in §1911.B.2.e of this Chapter. Revocations for no or improper insurance shall be recalled and the license reinstated once the facility provides proof of required insurance.

B. - B.4. ...

5. For the purpose of this Part, removal from the Louisiana State Police tow truck rotation list shall not constitute a department action subject to review under Subsection B of this Section. Placement on the Louisiana State Police rotation list is a privilege, not a right. Any tow truck owner may submit a written appeal to the region major requesting a review of an investigation and/or suspension. Review hearings will be held within 10 business days, after a request is made.

C. - D.2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:854 (May 2006), amended LR 35:2201 (October 2009), LR 36:2576 (November 2010), LR 39:

Subchapter B. Tow Truck License Plate; Required Insurance

§1913. Tow Truck License Plate

A. Application

1. Applications shall be made to the Department of Public Safety and Corrections, in writing, upon forms prescribed and furnished by the department. Applications shall be complete, accurate and contain all required information. A non-refundable or transferable fee of \$150, in addition to other required fees, must be submitted with each Louisiana tow truck license plate application. Fees shall be tendered to the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70896.

a. Car carrier companies which transport less than five motor vehicles and do not store or hold motor vehicles shall be licensed as tow trucks upon application and submission of an affidavit to the Department of Public Safety and Corrections stating that the company does not store or hold motor vehicles and does not carry garage keeper's legal liability or garage liability insurance. These companies shall receive a "car carrier" endorsement on their required motor vehicle registration. This does not exclude the car carrier company from any other regulations as set by the Louisiana Towing and Storage Act.

2. - 2.b....

c. legal business entities such as corporations, limited liability companies, partnerships, limited liability partnerships or other such legally recognized entities, whether registered with the office of the Secretary of State or not, should use their legally registered trade name as their

business name. Such legally acknowledged entities shall include in the application:

- i. the names of corporate officers;
- ii. the name and address of the corporation's registered agent for service of process; and
- iii. the names of shareholders;

2.d. - 3.b. ...

c. Tow truck operators or owners shall permanently affix and prominently display on both sides of tow trucks the legal trade name of their business, telephone number and city of the vehicle's domicile in lettering at least 2 1/2 inches in height and not less than 1/4 inch in width. Truck and trailer combinations used to transport vehicles may choose to mark either the truck or trailer.

A.3.d. - D.1.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:856 (May 2006), amended LR 36:1270 (June 2010), LR 36:2579 (November 2010), LR 39:

Subchapter C. Safety

§1917. Driver's License; Required Skills and Knowledge

A. - A.5. ...

6. the operator of a tow truck has not been convicted of a felony relating to vehicle thefts and is not registered or required to be registered as a sex offender or child predator as required in R.S. 15:542.

7. the operator of a tow truck shall have a safety belt properly fastened about his or her body at all times when the tow truck is in forward motion. This shall not apply when the operator of a tow truck in the process of maneuvering the tow truck while recovering or loading a vehicle.

8. the operator of a tow truck shall wear reflective uniform or clothing equivalent to the ANSI Class II or III standard as Federally required when working on or near the roadway during a vehicle recovery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:858 (May 2006), amended LR 39:

§1919. Tow Truck Lighting; Equipment

A. Tow truck operators and towing services shall ensure tow trucks are equipped with, and use, required lighting, pursuant to state law and CFR Title 49. Auxiliary tow lighting shall be required and used if the rear tail lamps, stop lamps or turn signals on a combination of vehicles are obscured, inoperative, or not visible to the rear by approaching traffic. When auxiliary tow lights are required, they shall include a minimum of two properly functioning tail lamps, stop lamps and turn signals, which may be combined and shall be attached as far apart as practical on the rearmost portion of the towed vehicle and visible to the rear by approaching traffic.

B. Tow trucks shall comply with all equipment requirements found in, or adopted pursuant to Louisiana Revised Statutes Title 32, Chapter 1, Part V (Equipment of Vehicles), 32:1711 et seq. and, if applicable, CFR Title 49.

C. Tow truck shall be equipped with only amber colored flashing warning lights, strobes, light bars or beacons with sufficient strength and mounted in a location to be visible at

360 degrees at a distance of no less than 1,000 feet under normal atmospheric conditions. Each tow truck shall be equipped with at least one amber colored light bar or beacon mounted to the roof or a higher location on a tow truck. Tow trucks used solely to transport vehicles on an attached trailer are exempt from this requirement provided they do not conduct roadside recovery operations or participate on any law enforcement rotation list.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:858 (May 2006), amended LR 39:

§1921. Required Equipment

A. - A.8.b. ...

9. Tow truck components including, but not limited to, winches, booms, cables, synthetic rope, cable clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, bed locks, hydraulic components, etc., shall be in good working order and maintained to manufacturer/factory specifications.

B. - B.1.b ...

c. Acceptable securement devices are chains, cables or synthetic webbing with a combined working load limit equal to or greater than one-half the gross weight of the transported vehicle and customarily used for securing a vehicle or load. Acceptable securement devices shall meet all requirements in CFR 49.

2. - 2.c ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:858 (May 2006), amended LR 39:

§1927. Inspections by the Department

A. - B.1.c. ...

d. Tow trucks may be stopped and inspected at anytime while being operated on a public roadway to promote compliance with the provisions of this Chapter. Tow trucks transporting a vehicle where the owner or operator of that vehicle is present or when the driver provides a previous inspection report conducted within the last 24 hours shall not be delayed for an inspection unless there is an obvious safety violation. Inspecting officers shall consider the safety of passing motorists, the operator of the tow truck, and themselves when selecting an inspection location.

2. - 6.b.i. ...

c Penalty

i. Any tow truck owner or tow truck operator violating the provisions of Subparagraph B.6.a (Drivers) of this Section shall be fined no less than \$250 and no more than \$500

ii. Any tow truck owner violating the provisions of Subparagraph B.6.b (Tow Trucks) of this Section shall be fined \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:859 (May 2006), amended LR 39:

§1929. Towing Services to Use Due Care

A. ...

B. Tow truck and/or storage facility owners and operators shall adhere to any lawful orders or direction of a department law enforcement officer. No tow truck owner, operator, or employee shall be required to follow a directive or order that is unsafe or beyond the operational standard or capacity of any equipment being used in cleanup or in the removing the roadway hazard. If a tow truck owner or operator refuses to follow a directive or order because of an unsafe condition, no adverse action by a law enforcement agency shall be taken against such owner or operator including removal from any rotation list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 36:2579 (November 2010), amended LR 39:

Subchapter D. Vehicle Storage

§1931. Storage Facility; Licensing, Fees, Inspection, Requirements

A. - B.8. ...

9. The place of business shall meet all requirements as defined in §1905 of this Chapter. This provision shall only apply to new storage facility applicants effective January 1, 2013 and will not affect licensed facilities seeking a renewal.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:861 (May 2006), amended LR 36:2579 (November 2010), LR 39:

§1939. Permits to Sell and Permits to Dismantle

A. - D. ...

E. Storage facilities shall maintain copies of the permits to sell, permits to dismantle, and bills of sale with buyer's name as may be applicable for each vehicle stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:861 (May 2006), amended LR 36:2579 (November 2010), LR 39:

§1941. Storage and Towing Facilities; General Requirements; Procedures

A. ...

B. Vehicles shall be released immediately to the vehicle owner or lien holder, or authorized representative once payment is made, any applicable lien holder requirements (R.S. 32:1720.1) are met, and any applicable documented law enforcement or department hold orders are released.

1. Authorized representative shall mean anyone who has obtained written authorization from the vehicle owner or lien holder. Written authorization shall contain the name of the authorized agent, the name and signature of the vehicle owner or lien holder, a phone number for the vehicle owner or lien holder, and a description of the vehicle including the year, make, model, and color. Written authorization does not need to be notarized if signature of the owner or lien holder is witnessed and contains a photocopy of the owner's

government issued photo identification. Written authorizations shall be maintained with the vehicle file at the towing and/or storage facility's place of business. The requirement of written authorization shall not apply where the vehicle is insured and is deemed a total loss by the insurer.

C. - P.3.d. ...

e. a copy of a towing and storage report issued by a law enforcement or other public agency shall exempt the towing company from the invoice requirements for the initial tow. The towing invoice shall be completed once the vehicle arrives at the storage facility or other destination as directed by the law enforcement agency or the owner or operator of the vehicle.

Q. - Q.9. ...

10. records from the sale of a vehicle including the bill of sale with sale price, copies of the permit to sell, name of the buyer; and

11. proof of law enforcement notification as required in R.S. 32:1718.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:862 (May 2006), amended LR 36:2580 (November 2010), LR 39:

§1943. Storage Rates

A. ...

B. Towing and/or storage facilities shall be staffed and open for business Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays. Employees staffing the facility must have access to vehicle storage records to assist in administrative inspections by the Department and be able to release vehicles and/or belongings. All storage records since the date of the last annual storage inspection must be readily accessible and available. Storage records prior to the last annual inspection, if not readily available, shall be made available by the end of the next business day.

1. Licensed storage facilities that operate as a mechanic or repair shop and do not conduct non-consensual tows may set their own business hours provided they do not charge gate fees and give notice to the Department by noting their days and hours of operation on their storage license application or renewal form. The storage facility must be open for business at least five days a week. These hours must be clearly posted along with other required information in accordance with §1941.D of this Chapter. Storage Facilities that do not adhere to the hours of operation listed on their storage license application or renewal form shall be in violation of failing to staff their facility. Towing and/or storage facilities shall be staffed and open for business Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:863 (May 2006), amended LR 39:

Subchapter E. Rotation List

§1947. Law Enforcement Tow Truck Rotation List

A. - A.5.d. ...

6. No law enforcement officer shall recommend to the vehicle owner or operator a specific tow company to conduct a tow. All tows shall be referred to the law enforcement rotation list or the authorized contractor for the law enforcement agency. When the owner or operator exercises their option to select the tow company, such selection shall be duly noted on the tow invoice or the law enforcement record of the incident.

B. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:863 (May 2006), amended LR 36:546 (March 2010), LR 36:2580 (November 2010), LR 39:

Family Impact Statement

1. The effect of these Rules on the stability of the family. These Rules should not have any effect on the stability of the family.

2. The effect of these Rules on the authority and rights of parents regarding the education and supervision of their children. These Rules should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these Rules on the functioning of the family. These Rules should not have any effect on the functioning of the family.

4. The effect of these Rules on family earnings and family budget. These Rules should not have any effect on family earnings and family budget.

5. The effect of these Rules on the behavior and personal responsibility of children. These Rules should not have any effect on the behavior and personal responsibility of children.

6. The effect of these Rules on the ability of the family or local government to perform the function as contained in the proposed Rules. These Rules should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Impact

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2013.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Towing, Recovery and Storage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change will not result in any estimated implementation costs or savings to state or local governmental units. The proposed Rule provides clarification with regard to the non-consensual towing and storage of vehicles, consolidates and streamlines the schedule of fines for administrative penalties, makes minor changes in spelling and grammar, codifies certain current administrative practices into rule with regard to suspensions and revocations, and provides for the licensure of certain car carriers as tow trucks as per Act 828 of the 2012 Regular Session of the Louisiana Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is not anticipated to have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change is not anticipated to have a significant effect on the costs and/or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will not impact competition and employment.

Jill P. Boudreaux
Undersecretary
1309#052

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Composite Payment Requirements; Exceptions (LAC 61:I.1401)

Under the authority of R.S. 47:201.1, R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1401 relative to partnership composite returns.

Act 580 of the 2012 Regular Session amended R.S. 47:201.1 to provide that when a partnership composite return

is filed, nonresident members or nonresident partners may claim their respective share of credits earned by the partnership. LAC 61:I.1401 is being amended to reflect these changes.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 14. Income: Partnerships

§1401. Partnership Composite Return Requirement, Composite Payment Requirement, Exceptions

A. Definitions. For the purpose of this rule, the following terms are defined.

Corporation—an entity that is treated as a corporation for state income tax purposes as set forth in R.S. 47:287.11(A).

Engaging in Activities in This State—having payroll, sales, or tangible property in this state, or intangible property with a Louisiana business situs.

Individual Return—a Louisiana personal income tax return or a Louisiana fiduciary income tax return.

Nonresident—any person not domiciled, residing in, or having a permanent place of abode in Louisiana.

Partner—a member or partner of an association that is treated as a partnership for state income tax purposes, including but not limited to, a member in a limited liability company or a partner in a general partnership, a partnership in commendam, or a registered limited liability partnership. A partner is the ultimate owner of a partnership interest; therefore someone holding or managing a partnership interest on behalf of another, such as a broker, is not a partner for purposes of this rule.

Partnership—any association that is treated as a partnership for state income tax purposes including, but not limited to, a general partnership, partnership in commendam, a registered limited liability partnership, or a limited liability company. Because of R.S. 47:287.11(A), the above listed business associations that do not elect to be taxed as corporations for federal income tax purposes are treated as partnerships for Louisiana income tax purposes.

B. Persons to be included in a Composite Return

1. Partnerships engaging in activities in this state that have nonresident partners are required to file a composite partnership return unless:

a. all nonresident partners are corporations, partnerships or tax exempt trusts; or

b. all nonresident partners, other than corporations, partnerships and tax exempt trusts, have a valid agreement on file with the Department of Revenue in which the partner has agreed to file an individual return and pay income tax on all income derived from or attributable to sources in this state.

2. Unless otherwise provided herein, corporate partners and partners, who are themselves partnerships, cannot be included in composite returns filed by a partnership. These partners must file all applicable Louisiana tax returns, and must report all Louisiana source income, including income from the partnership in those returns.

3. If credits earned by the partnership are being claimed on the composite return, all nonresident partners must be included on the composite return.

C. Composite Return Requirements

1. All nonresident partners, other than partners that are corporations, partnerships or tax-exempt trusts, who were partners at any time during the taxable year and who do not have a valid agreement on file with the Department of Revenue must be included in the composite partnership return.

2. The due date of the composite return is the due date set forth for all income tax returns other than corporate returns.

3. A schedule must be attached to the composite return that included the following information for every nonresident partner in the partnership:

- a. the name of the partner;
- b. the address of the partner;
- c. the taxpayer identification number of the partner;
- d. the partner's distributive share; and
- e. whether or not that partner has an agreement on file with the Department of Revenue to file an individual return on his or her own behalf.

4. The filing of a true, correct, and complete partnership composite return will relieve any nonresident partner properly included in the composite return from the duty to file an individual return, provided that the nonresident partner does not have any income from Louisiana sources other than that income reported in the composite return.

5. Filing requirement the first year the partnership is subject to the composite return rules and issuance of special identification number. Every partnership that engages in activities in this state and that has nonresident partners will make an initial filing with the department.

a. Each partnership that is required to file a composite return must register for an account number with the Department of Revenue prior to the filing of its first composite return and prior to making its first composite payment. Upon registration, the partnership will be issued an identification number. This identification number shall be used on all partnership correspondence with the department, including the filing of composite returns by the partnership, which will be in electronic form, as determined by the Department of Revenue.

b. Each partnership that is not required to file a composite return because all its partners have filed agreements to file on their own behalf, must make an initial filing in which it files all agreements with the Department of Revenue by the composite return due date. Each partnership must register for an account number with the Department of Revenue prior to making an initial filing. Upon registration the partnership will be issued an identification number. This identification number shall be used when making the initial filing, as well as on all partnership correspondence with the department, including the filing of additional agreements, which will be in electronic form, as determined by the Department of Revenue.

6. If credits earned by the partnership are being claimed on the composite return, a schedule must be attached to the composite return that includes the following information for each partner in the partnership:

- a. the name of the partner;
- b. the address of the partner;

c. the taxpayer's identification number of the partner;

d. the partner's distributive share; and

e. the partner's share of each credit.

D. Composite Payment Requirement

1. All partnerships engaging in activities in this state that have nonresident partners that are not corporations, partnerships or tax-exempt trusts shall make composite payments on behalf of all of their nonresident partners, other than corporate partners and partners, who are themselves partnerships, who do not file an agreement to file an individual return and pay Louisiana income tax.

2. The composite payment is due on the earlier of the date of filing of the composite return or the due date of the composite return, without regard to extensions of time to file. An extension of time to file the composite return does not extend the time to pay the composite payment.

3. Each partner's share of the composite payment is the maximum tax rate for individuals multiplied by the partner's share of partnership income that was derived from or attributable to sources in this state. This computation applies whether or not the partnership income is distributed.

4. The composite payment to be made by the partnership is the sum of each partner's share of the composite payment for all partners included in the composite return.

a. If credits earned by the partnership are being claimed on the composite return, the composite payment to be made by the partnership will be the amount of tax after the application of nonrefundable credits.

5. For a nonresident partner whose only Louisiana income is from the partnership, amounts paid by the partnership on that partner's behalf will be treated as a payment of that partner's Louisiana individual income tax liability.

6. If a partner has any Louisiana source income in addition to the income from the partnership, amounts paid by the partnership on that partner's behalf will be treated as an advance payment of the tax liability shown on that partner's individually filed return. The amount claimed will be the amount of tax after the application of nonrefundable credits.

E. Nonresident Partner's Agreement to File an Individual Return

1. No composite return or composite payment is required from a partnership on behalf of a partner who has a valid agreement on file with the Department of Revenue in which the partner has agreed to file an individual return and pay income tax on all income derived from or attributable to sources in this state.

2. The partner will execute the agreement and transmit the agreement to the partnership, on or before the last day of the month following the close of the partnership's taxable year.

3. The partnership will file the original agreement with the composite return filed for that taxable year. The partnership must keep a copy of the agreement on file.

4. The agreement must be in writing, in the form of an affidavit and must include all of the following:

a. a statement that the taxpayer is a nonresident partner or member;

- b. the partner's name;
- c. the partner's address;
- d. the partner's Social Security number or taxpayer identification number;
- e. the name of the partnership;
- f. the address of the partnership;
- g. the partnership's federal taxpayer identification number;
- h. a statement that the taxpayer agrees to timely file a Louisiana individual income tax return and make payment of Louisiana individual income tax;
- i. a statement that the taxpayer understands that the Louisiana Department of Revenue is not bound by the agreement if the taxpayer fails to abide by the terms of the agreement;
- j. the statement that "under penalties of perjury, I declare that I have examined this affidavit and agreement and to the best of my knowledge, and belief, it is true correct and complete;" and
- k. the signature of the partner.

5. Once an agreement is signed by the partner, transmitted to the partnership, and the partnership has filed the agreement with the Department of Revenue, the agreement will continue in effect until the partner or the Department of Revenue revokes the agreement, or the partner is no longer a partner in the partnership.

6. The agreement may be revoked by either the partner or the Department of Revenue as follows.

a. The partner may revoke the agreement at will. However, this revocation does not become effective until the first partnership tax year following the partnership tax year in which the revocation is transmitted to the partnership. The partner must send written notice of the revocation to the partnership. The partnership will forward the notice to the Department of Revenue. The partnership may execute a new agreement, in the manner set forth in this Subsection, at any time.

b. The Department of Revenue may revoke the agreement only if the partner fails to comply with the terms of the agreement. This revocation is prospective only with respect to the partnership, and does not become effective until the first partnership tax year following the partnership tax year in which the revocation is transmitted to the partnership. The Department of Revenue must send written notice of the revocation to the partner and the partnership. The notice will be mailed to the partnership at the address given in the last return or report filed by the partnership. The notice will be mailed to the partner at the address provided in the agreement. If the Department of Revenue revokes an agreement, the department may refuse to accept a subsequent agreement by that partner, unless the partner can show that the revocation was in error.

F. A partnership making a composite return and payment must furnish the following information to all partners included in the composite return:

- 1. the identification number that was issued to the partnership by the department under Subparagraph C.6.b above;
- 2. the amount of the payment made on the partner's behalf;
- 3. a statement that the amount paid on the partner's behalf can be used as an advance payment of that partner's

Louisiana individual income tax liability for the same tax period.

4. The mailing address of the Louisiana Department of Revenue; and

5. The world wide web address of the Louisiana Department of Revenue, www.rev.state.la.us.

G. Additional Provisions for Publicly Traded Partnerships

1. A publicly traded partnership that is not treated as a corporation for federal income tax purposes may elect, with the prior approval of the secretary:

- a. not to accept agreements filed by partners under the provisions of Paragraph B.4 or Subsection E above; and
- b. to include all partners in its composite return and composite payment required by this Section, including corporations and tax-exempt trusts.

2. This election must be approved in writing and approved in writing by the secretary. Once approval is granted, the election will remain in effect until revoked by the partnership.

3. The composite payment to be made by the publicly traded partnership is the sum of each partner's share of the composite payment for all partners. Each partner's share of the composite payment is the maximum individual income tax rate multiplied by the partner's share of partnership income that was derived from or attributable to sources in this state. This computation applies whether or not the partnership income is distributed.

4. Inclusion in a partnership composite return filed by a publicly traded partnership shall not relieve resident partners, corporate partners, or nonresident partners who have other Louisiana source income of the obligation to file all applicable Louisiana tax returns, and report all Louisiana source income, including income from the partnership.

H. Nothing in this regulation shall restrict the secretary's authority to otherwise provide for efficient administration of the composite return and composite payment requirements of R.S. 47:201.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:164 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:868 (April 2002), amended LR 33:861 (May 2007), LR 39:

Family Impact Statement

The proposed amendments of LAC 61:I.1401, regarding partnership composite returns should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

- 1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
- 2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
- 3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
- 4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budgets.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed amendment will have no impact on poverty as described in R.S. 49:973.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Vanessa LaFleur, Director, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., October 28, 2013.

Public Hearing

A public hearing will be held on October 29, 2013, at 1:30 p.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Composite Payment Requirements; Exceptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 580 of the 2012 Regular Legislative Session amended R.S. 47:201.1 to provide that when a partnership composite income tax return is filed, it must be filed electronically. In addition, nonresident members or nonresident partners may claim their respective share of credits earned by the partnership from the composite return. Prior to Act 580, nonresident members or partners were required to file an additional return to claim a share of the partnership credits. This rule is being amended to reflect those changes. Implementation costs of this rule amendment include form changes and computer system development and modification. These costs are approximately \$122,000 in FY 14 with the new provisions expected to be applied to Tax Year 2013 returns. Implementation costs are being absorbed in the existing budget. Local governmental units are not affected by this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposal will not affect revenue collections since it only provides another means for partnerships and their members to claim credits earned by the partnerships. Therefore, this proposal should have no impact on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons affected by this amendment are partnerships that file composite partnership returns, and their resident and nonresident individual partners. Affected partnerships will be required to submit electronic composite returns rather than paper returns. The difference in costs between the paper and electronic filing methods is expected to be minimal. Nonresident partners of these partnerships will also be affected by allowing the distribution of partnership credits without additional nonresident returns required. Resident partners

previously could be included in the composite return, but will be excluded by this amendment. Any costs or economic benefits to resident and nonresident partners caused by this amendment are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Tim Barfield
Secretary
1309#055

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Engineering

Railroad Grade Crossings (LAC 70:IX.1301)

Notice is hereby given in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:390 and R.S. 48:390.1 that the Department of Transportation and Development, Office of Engineering, proposes to amend §1301 to provide for procedures relative to the closures of railroad grade crossings on state owned and locally owned public grade crossings and related notifications to interested persons and entities.

Title 70

TRANSPORTATION

Part IX. Intermodal Transportation

Chapter 13. Safety Requirements for Railroad Grade Crossings

§1301. Closures of Grade Crossings

A. Applicability: Unless otherwise provided herein, this Rule shall apply to all public railroad grade crossings.

B. The department evaluates railroad grade crossings in accordance with 23 CFR 646 relative to railroad-highway projects based upon the following criteria:

1. estimated daily vehicular use at the crossing;
2. average number of trains passing the crossing per day (as provided by the railroad);
3. availability of alternative routes and distances to such routes;
4. train speeds at the crossing (as provided by the railroad);
5. highway/railroad accident/incident history at the crossing;
6. existing warning devices at the crossing;
7. degree of difficulty involved in improving the roadway approach by profile or in providing adequate warning devices such as flashing lights, gates, etc.;
8. sight distance and visibility at the crossing;
9. angle of intersection of alignments of the roadway and the railroad;
10. redundancy of crossings in the area;
11. proximity of a state highway, new crossing or recently upgraded crossing;
12. number of school busses using the crossing (as provided by the local governing authority);
13. number of unique vehicles using the crossing, such as those which carry hazardous materials or passengers for hire (as provided by the local governing authority); and

14. effect of any change on usage by emergency vehicles (as provided by the local governing authority).

C. If an evaluation suggests that closure of a public grade crossing is necessary for safety and in the best interest of the public, the department shall comply with the following procedures prior to closing the railroad grade crossing.

1. A review will be conducted in accordance with 23 CFR 646 by a diagnostic review team (DRT) team consisting of knowledgeable individuals. The department will collaborate with local officials to identify the individuals who will participate on the DRT.

2. The department highway/rail safety unit will send invitations to the DRT members by electronic transmission at least one week prior to the actual diagnostic review. The diagnostic review may occur earlier if agreed to by the DRT.

3. The department highway/rail safety unit will be responsible for providing the diagnostic review information to the DRT and for preparing and distributing completed criteria forms and comment sheets from the diagnostic review meeting.

4. The department highway/rail safety unit shall prepare the findings and recommendation of the DRT and produce all relevant documents and information that were considered. 5. Any diagnostic review that is older than 3 years shall be reevaluated by the department to insure that the original data and recommendations are still valid and if needed, the department will conduct another diagnostic review.

D. If the DRT recommends closure, the following procedures shall apply.

1. The department highway/rail safety engineer shall prepare a letter for approval by the chief engineer to proceed with the closure. This letter shall contain a brief explanation of the project location, the reasons for recommending the closure, any relevant attachments such as the diagnostic review meeting minutes, and the traffic analysis, if applicable.

2. If the department chief engineer agrees with the recommendation for closures, the chief engineer shall execute and forward the approval letter and furnish copies to the department assistant secretary, office of operations, the DRT, the applicable district administrator and elected officials and local public agencies.

3. The department highway/rail safety engineer shall provide notice of the approved closure in the following manners:

- a. to the local governing authority, by certified mail;
- b. to the railroad company, by mail;
- c. to any other parties deemed by the department to have an interest in the proposed closure of the public grade crossing, by mail or electronic mail;
- d. to local residents, including all property owners within a two mile radius of the subject crossing, by public notice with instructions for providing comments, published in the official journal where the crossing is located, by media release in local media outlets with instructions on providing comments, and by posting a notice of closure at the railroad grade crossing that is subject to closure.

4. All notifications and publications, exclusive of the notice at the railroad grade crossing, shall establish a period of time, not less than 30 days, in which to provide comments

and shall provide for a method by which the comments shall be delivered to the department. In addition, information may be obtained by visiting www.dotd.la.gov, or by e-mail at dotdcs@la.gov, or by calling the department customer service center at (225) 379-1232 or 1-877-4LADTOD (1-877-452-3683).

5. If the subject railroad grade crossing is on a state highway, the department will conduct a public meeting to address concerns of the local residents, businesses, and concerned citizens. The public meeting should be scheduled within 60 days of the notification.

6. If the subject railroad grade crossing is on a public non-state highway, the department will encourage the local public authority to hold a public meeting and may assist with the public meeting. The local public authority may request information from the department at the public meeting. Additional information may be obtained by visiting www.dotd.la.gov, or by e-mail at dotdcs@la.gov, or by calling the department's customer service center at (225) 379-1232 or 1-877-4LADOTD (1-877-452-3683). The notices relative to the local public meetings should be in accordance with the timelines established herein for state highway railroad grade crossings. The local public authority may request up to 45 additional days in which to convene a meeting or submit comments provided the request is in writing and received by the department highway/rail safety engineer or the department public affairs office within the initial 30-day period for comments.

7. If new information is presented or received that would cause the department to revise its recommendation for closure, or if an additional study is required as a result of new information, the department shall notify the local governing authority and the railroad company in writing of its revised plans.

8. The department will respond to comments received from the public and from the local governing authority in a timely fashion. After comments have been considered and after a public meeting has been conducted, as established herein, the department highway/rail safety engineer will prepare a notice of intent either, recommending, revising or rejecting the proposed railroad grade crossing closure to the department chief engineer. The notice of intent shall include a summary of findings and the manner of closure to be made to the crossing or adjacent crossings, if applicable.

9. If the department chief engineer approves the recommendation for closure, the notice of intent will be provided to the local governing authority by certified mail and to the railroad company by e-mail or regular mail.

10. For roadways maintained by local public entities, the local governing authority may request a reconsideration of the decision of the department chief engineer. Any such request must be in writing and received by the department chief engineer within 15 workdays from receipt of the notice of intent. If the request for reconsideration is timely received, the department secretary, chief engineer and executive director of the Louisiana Highway Safety Commission will meet to reconsider the approval. A final determination should be made within 15 workdays of receipt of the request for reconsideration.

11. Once the final determination is made, the department will work in conjunction with the railroad

company to accomplish the work necessary to implement the consolidation/closure.

12. The local governing authority shall be kept apprised of the closure work schedule as follows.

a. The department will contact the local governing authority and applicable elected officials by telephone to relay the final decision of the department.

b. The department will issue a media release of the closure in accordance with current department policy.

c. A formal written notice will be sent to the local governing authority by certified mail, and the railroad company with the expected date of closure, and assurances that the closure will be made at no cost to the local public authority.

d. The department district office will notify appropriate emergency personnel of the closure.

13. Department district personnel will work with the railroad company to place any needed barricades on both sides of the crossing within the date provided in the media release.

14. After the crossing is physically closed, the department and railroad will work with the local public authority to remove any portion of local roadway within the city or parish right-of-way, if applicable, and install signs or other appurtenances, as needed.

15. The railroad company and the department will remove portions of roadway within its right-of-way, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:95 (January 1999), amended by the Office of Engineering, LR 39:

Family Impact Statement

Implementation of this proposed Rule change should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed Rule change will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule change will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule change will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule change will have no known or foreseeable effect on the family earnings and family budget;

5. the implementation of this proposed Rule change will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule change will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed Rule change should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or

community asset development as defined by R.S. 49:973. Specifically:

1. the implementation of this proposed Rule change will have no known or foreseeable effect on household income, assets, and financial security;

2. the implementation of this proposed Rule change will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development;

3. the implementation of this proposed Rule change will have no known or foreseeable effect on employment and workforce development;

4. the implementation of this proposed Rule change will have no known or foreseeable effect on taxes and tax credits;

5. the implementation of this proposed Rule change will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The implementation of this proposed Rule change on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule change is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to Simone Ardoin, Assistant Road Design Engineer Administrator, Office of Engineering, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804-9245, telephone (225)379-1951.

Sherri H. LeBas
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Railroad Grade Crossings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs or savings to state or local governmental units associated with the adoption of the proposed Rule changes. The proposed changes codify new notification and review requirements established in Act 406 of the 2012 Regular Legislative Session. These procedures identify the parties who must be notified of proposed railroad grade crossings; the manner in which notice must be provided; the establishment and make-up of a diagnostic review team and rail safety reconsideration board; a requirement to hold public meetings related to proposed closures; and a method to receive and address comments by interested parties. Additionally, the proposed Rule changes codify current departmental practices with regard to notification and public meetings. Expenditures associated with the formation and meetings of the diagnostic review teams will be absorbed within existing departmental resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections of state or local governmental units as a result of the proposed Rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The financial participation between the state, railroads and the federal highway administration (FHWA) is set forth in 23 CFR 646. The consolidation and closure of numerous railroad crossings that are deemed unsafe or unnecessary may produce tangible and significant economic benefits for rail transportation companies and for individuals if the occurrence of accidents and personal injuries is curtailed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no effect on competition and employment.

Richard L. Savoie
Chief Engineer
1309#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Unemployment Insurance Administration**

Appealed Claims for Board of Review (LAC 40:IV.111)

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to amend §111. The purpose of the amendment to §111 is to remove obsolete nomenclature from the body of the Section and to comply with newly legislated Act 39 which reduces the notice of hearing requirement from 10 days to 7 days.

**Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Subpart 1. Board of Review**

Chapter 1. General Provisions

§111. Notice of Hearing

A. A notice of hearing shall be mailed to all parties to the appeal at least seven days prior to the date of the hearing, specifying the place, date and time of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:36 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance Administration, LR 39:

Family Impact Statement

Implementation of the proposed Rule and rule revisions should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on any family formation, stability, and autonomy. The proposed Rule and rule revisions shall not have any impact on the six criteria set forth in R.S. 49:972(d).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule and rule revisions' impact on small business has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

Public Comments

All interested parties are invited to submit views, arguments, information, or comments on the proposed Rule and rule revisions to Director, Office of Unemployment Insurance Administration, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9040. Written comments must be submitted and received by the agency within 20 days from the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the agency within 20 days of the publication of this notice.

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing will be held on October 29, 2013, at 10 a.m. at the LWC Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802.

Curt Eysink
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Employment Security Law**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amends and revises Louisiana Administrative Code Title 40, Labor and Employment, Part IV, Subpart 1, Chapter 1, Section 111 Notice of Hearing. The amendment reduces the advance notice of hearing requirement from 10 days to 7 days to comply with Act 39 of the 2013 Regular Legislative Session. Also, the amendment removes obsolete nomenclature from the body of the section.

The Office of Unemployment Insurance Administration (OUIA) does not anticipate the implementation of the revisions to have a fiscal impact for FY 13-14, FY 14-15, or FY 15-16. The OUIA will only expend those administrative expenses necessary for the promulgation and revision of this proposed rule and final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to Section 111 will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Upon a request for an appeal by a claimant or employer, OUIA mails a notice of hearing at least 10 days prior to the date of the hearing. The proposed amendments to Section 111 reduces the advance notice of hearing from 10 days to 7 days; therefore, the OUIA may hear and resolve appeals 3 days

earlier. This is extremely beneficial to single party hearings involving either the claimant or the employer that may have their appeals heard and resolved earlier.

The proposed amendments to Section 111 are not anticipated to increase costs on persons directly affect or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of the proposed revision of Section 111.

Curt Eysink
Executive Director
1309#059

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Unemployment Insurance Administration**

Employment Security Law (LAC 40:IV.303 and 364)

Pursuant to the authority granted in R.S. 23:1653 and R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to promulgate §303 and §364. The purpose of promulgating §303 is to clarify the training requirements for newly hired administrative law judges. The purpose of promulgating §364 is to provide clarity in regard to the appeal rights associated with reciprocal offsets.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Subpart 1. Board of Review

Chapter 3. Employment Security Law

§303. Training of Administrative Law Judges

A. Prior to participation in any claim resolution, newly hired administrative law judges will participate in web-based and/or in-person training on: agency policy and precedent, benefits analysis, the unemployment insurance system, the appeals process, and the proper methods for conducting hearings and writing decisions according to federal quality standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653 et seq.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 39:

§364. Reciprocal Offset

A. An appeal of a determination to offset unemployment benefits under R.S. 23:1665.2 shall be limited to the authority of the administrator of the Louisiana Workforce Commission to offset against benefits payable to the claimant and shall be conducted in accordance with R.S. 23:1629 and R.S. 23:1630. All issues concerning the validity of the overpayment shall be directed by the claimant to the requesting state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653 et seq.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 39:

Family Impact Statement

Implementation of the proposed rules should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on any family formation, stability, and autonomy. The proposed rules shall not have any impact on the six criteria set forth in R.S. 49:972(d).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rules' impact on small business has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

Public Comments

All interested parties are invited to submit views, arguments, information, or comments on the proposed rules to Director, Office of Unemployment Insurance Administration, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9040. Written comments must be submitted and received by the agency within 20 days from the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the agency within 20 days of the publication of this notice.

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing will be held on October 29, 2013, at 10 a.m. at the LWC Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802.

Curt Eysink
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Employment Security Law**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule adopts Louisiana Administrative Code Title 40, Labor and Employment, Part IV, Subpart 1, Chapter 3, Section 303 Training of Administrative Law Judges and Section 364 Reciprocal Offset. Section 303 clarifies the training requirements for newly hired administrative law judges. Section 364 clarifies the appeal rights associated with reciprocal offsets in compliance with Act 48 of the 2013 Regular Legislative Session, which allows the reciprocal offsetting of benefits by and for other state and federal agencies.

The Office of Unemployment Insurance Administration (OUIA) does not anticipate the implementation of the revisions to have a fiscal impact for FY 13-14, FY 14-15, or FY 15-16. The OUIA will only expend those administrative expenses necessary for the promulgation and revision of this proposed rule and final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Section 364 that allows the reciprocal offsetting of benefits by and for other state and federal agencies may result in an increase in revenue collections. Act 48 of the 2013 Regular Legislative Session authorize a reciprocal arrangement between

Louisiana and other signatory states in the Interstate Reciprocal Overpayment Recovery Agreement (IRORA) to collect overpayment of unemployment benefits from current unemployment benefits being paid. Although these overpayment collections will be returned to the Unemployment Trust Fund, the OUIA may collect penalties and interest, which would be deposited into the Penalty and Interest Account.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed actions are not anticipated to have any fiscal impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the adoption of proposed rules.

Curt Eysink
Executive Director
1309#060

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Workers' Compensation**

Utilization Review Procedures (LAC 40:I:2715)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Workforce Commission, Office of Workers' Compensation, pursuant to the authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative provisions Act, proposes to amend LAC 40:I:2715.

The proposed amendments alter the existing Medical Treatment Schedule Authorization and Dispute Resolution Rules ("UR Rules"). The amendments add specific provisions regarding approval of a defined number of evaluation and management office visits in an otherwise compensable claim. The amendments also add a provision where the carrier/self-insured employer may only approval with modification active therapeutic exercise for no less than the "time to produce and effect" found in the applicable section of the Medical Treatment Guidelines in an otherwise compensable claim, provided the request does not result in care beyond the "frequency" and "maximum duration" listed in the applicable section. These current updates to the already improved process, will further improve medical outcomes resulting in injured workers returning to gainful employment more quickly.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 27. Utilization Review Procedures

§2715. Medical Treatment Schedule Authorization and Dispute Resolution

A. - B.3.c.

d. Except as provided pursuant to D.2, all requests for authorization of care beyond the statutory non-emergency monetary limit of \$750 are to be presented to the carrier/self-insured employer. In accordance with these Utilization Review Rules, the carrier/self-insured employer

or a utilization review company acting on its behalf shall determine if such request is in accordance with the medical treatment schedule. If the request is denied or approved with modification and the health care provider determines to request a variance from the medical director, then a LWC-WC-1009 shall be filed as provided in Subsection G of this Section.

B.3.e. - C.3.b. ...

D. Submission and Process for Request for Authorization

1. Except as provided pursuant to D.2., to initiate the request for authorization of care beyond the statutory non-emergency medical care monetary limit of \$750 per health care provider, the health care provider shall submit LWC-WC-1010 along with the required information of this Section by fax or email to the carrier/self insured employer.

2. Evaluation and Management Visits

a. The medical treatment schedule provides that a timely evaluation and management office visit with the treating physician is required for documentation of functional improvement resulting from previously authorized medical care, service and treatment. A LWC-WC-1010 shall be required to initiate the request for authorization of the first evaluation and management office visit that occurs beyond the statutory non-emergency medical care monetary limit of \$750 per health care provider. If such evaluation and management office visit is approved as medically necessary, a LWC-WC-1010 shall not be required for any subsequent evaluation and management office visits with the employee's treating physician within the first year of the accident date not to exceed 12 visits. Any evaluation and management office visit that occurred prior to the first submission of a LWC-WC-1010 shall count towards the 12 visits to occur within one year of the accident date. A LWC-WC-1010 shall be required for an evaluation and management office visit after the twelfth visit or after one year from date of accident. If approved, an LWC-WC-1010 shall only be required on every fourth evaluation and management office visit thereafter. The carrier/self-insured employer may authorize more office visits over a defined period of time.

b. Any medical care, services, or treatment performed at such evaluation and management office visit that will be billed as anything other than an evaluation and management office visit code shall require pre approval with a request for authorization on a form LWC-WC-1010. Nothing contained in Subparagraph D.2.a. shall prevent the carrier/self insured employer from denying one of the twelve evaluation and management office visits to occur within the first year of the accident date for reasons other than medical necessity to include but not be limited to causation, compensability, and medical relatedness. After the first twelve evaluation and management office visits or after one year from the date of accident, the carrier/self insured employer may deny as not medically necessary any request for an evaluation and management office visit.

3. Authorization for Active Therapeutic Exercise

a. If the carrier/self insured employer determines on an otherwise compensable claim that modifications to a request for authorization on LWC-WC-1010 for active therapeutic exercise is necessary in order for the request for authorization to be in accordance with the medical treatment schedule, said request shall not be approved with

modification for a number of treatments less than the minimum “time to produce effect” found in the applicable portion of the medical treatment schedule.

b. Notwithstanding the provisions of Subparagraph 3.a., the carrier/self-insured employer may approve with modification a request for active therapeutic exercise below the minimum “time to produce effect” found in the applicable portion of the medical treatment schedule if the carrier/self-insured employer has already approved active therapeutic exercise beyond the “frequency” and “maximum duration” found in the applicable portion of the medical treatment schedule.

4. The carrier/self-insured employer shall provide to the OWC a fax number and/or email address to be used for purposes of these rules and particularly for LWC-WC-1010 and 1010A. If the fax number and/or email address provided is for a utilization review company contracted with the carrier/self-insured employer, then the carrier/self-insured employer shall provide the name of the utilization review company to the OWC. All carrier/self-insured employer fax numbers and/or email addresses provided to the OWC will be posted on the office’s website at www.laworks.net. If the fax number or e-mail address is for a contracted utilization review company, then the OWC will also post on the web the name of the utilization review company. When requesting authorization and sending the LWC-WC-1010 and 1010A, the health care provider shall use the fax number and/or email address found on the OWC website.

5. Pursuant to R.S. 23:1203.1, the five business days to act on the request for authorization does not begin for the carrier/self-insured employer until the information of Subsection C and LWC-WC-1010 is received. In the absence of the submission of such information, any denial of further non-emergency care by the carrier/self-insured employer is prima facie, not arbitrary and capricious.

E. - O.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), repromulgated LR 18:257 (March 1992), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1030 (April 2012), repromulgated LR 38:1287 (May 2012), amended LR 38:3255 (December 2012), LR 39:

Family Impact Statement

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on any family formation, stability, and autonomy. This proposed Rule shall not have any impact on the six criteria set out in R.S. 49:972(D).

Poverty Impact Statement

Implementation of this proposed Rule should not have any known or foreseeable impact on poverty as defined by R.S. 49:973.

Small Business Statement

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the

proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested parties may submit data, views, arguments, information or comments on the proposed amendment in writing to the Louisiana Workforce Commission, Office of Workers’ Compensation, P.O. Box 94040, Baton Rouge, LA 70804-9040., Attention: Director, Office of Workers’ Compensation Administration. Written comments must be submitted and received by the department within 20 days from the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the department within 20 days of the publication of this notice.

Public Hearing

A public hearing will be held on Thursday October 24, 2013, at 9 a.m. at the Louisiana Workforce Commission Training Center, 2155 Fuqua St., Baton Rouge, LA 70802.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Utilization Review Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendments alter the existing Medical Treatment Schedule Authorization and Dispute Resolution Rules (“UR Rules”), Louisiana Administrative Code, Chapter 40, Part I, Subpart 2, Chapter 27 Utilization Review Procedures. The amendments add specific provisions regarding approval of a defined number of evaluations and management office visits in an otherwise compensable claim. Also, the proposed amendments add the following provisions to authorization for active therapeutic exercise: (1) the carrier/self-insured may only approve with modification active therapeutic exercise for no less than the “time to produce effect” found in the applicable section of the Medical Treatment Guidelines in an otherwise compensable claim; and (2) provided the modification request by the carrier/self-insured does not result in care beyond the “frequency” and “maximum duration” listed in the applicable section. These amendments are in accordance with Senate Concurrent Resolution 129 of the 2013 Regular Legislative Session.

The Office of Workers’ Compensation (“OWCA”) will not experience any additional expenses due to the proposed amendments, including the capturing of expanded information, nor will OWCA experience material savings from them. The proposed amendments will be made available online, therefore no massive re-printing of the rules will be necessary.

The Division of Administration indicates that the proposed rule will have no fiscal impact on the Office of Risk Management.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of the proposed rules will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments will help facilitate care requested by treating physicians for injured workers. As such, it

is anticipated that these amendments will assist in getting injured workers the care they need in a fast and efficient manner so they can return to the workforce.

No additional costs or workload adjustments are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Wes Hataway
Director
1309#061

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Experimental Fisheries Permit (LAC 76:VII.701)

The Wildlife and Fisheries Commission does hereby give notice of its intent to adopt the following changes to remove the requirement for a special permit for the harvest of Shad and skipjack with an experimental seine and gill net and to remove the experimental dipnet permit.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§701. Permits

A. - D.7. ...

8. - 10.j. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571, R.S. 56:322.1, and RS 56:322.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), LR 12:847 (December 1986), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 15:1098 (December 1989), LR 28:1601 (July 2002), LR 29:49 (January 2003), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:947 (April 2005), LR 39:

Family impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the Notice of Intent to Mr. Randy Myers, Biologist DCL-B, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, January 2, 2014.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the

preparation of reports and correspondence to other agencies of government.

Ronald Graham
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Experimental Fisheries Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no anticipated implementation costs to state or local governmental units. The proposed rule change eliminates a special experimental shad and skipjack shad seine and gill net permit that is now redundant. The proposed rule change also eliminates language pertaining to experimental freshwater minnow dip net permits in one section of Title 76 that is now redundant of regulations in Title 56.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1309#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Freshwater Permits (LAC 76:VII.183)

The Wildlife and Fisheries Commission does hereby give notice of its intent to repeal the requirement for a special permit for commercial fish seining on Lake Louis, Catahoula Parish:

Title 76

WILDLIFE AND FISHERIES

PART VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§183. Commercial Fish Seining Regulations, Lake Louis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:1144 (November 1996), repealed LR 39:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of

Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the Notice of Intent to Randy Myers, Biologist DCL-B, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, January 2, 2014.

Ronald Graham
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Freshwater Permits

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change would rescind a ban on commercial fishing without a permit in Lake Louis in Catahoula Parish. It would also eliminate a requirement to file monthly reports of commercial fish harvests from Lake Louis with the Louisiana Department of Wildlife and Fisheries. A minor savings to the Department of Wildlife and Fisheries will occur as a result of not issuing the permits and processing related reports associated with implementation of the proposed rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change is expected to have no effect on revenue collections of state or local governmental units because there is no fee associated with the permit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Commercial fishermen in the vicinity of Lake Louis may benefit from a reduction in the cost of regulatory compliance. This reduction in regulatory compliance costs may result in a minor increase in commercial fishing activity, harvests, and revenues.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1309#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Game Fish Fingerling Aquaculture
(LAC 76:VII.159 and 907)

The Wildlife and Fisheries Commission does hereby give notice of its intent to adopt the following changes.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§159. Game Fish Fingerling Aquaculture—Rules and Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(1)(b) and R.S. 56:327(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:2155 (November 1998), repealed by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 39:

Chapter 9. Aquaculture

§907. Game Fish Fingerling Aquaculture—Rules and Regulations

[Formerly LAC 76:VII.159]

A. A fish farmer raising and selling live game fish fingerlings must obtain an annual domesticated aquatic organism license issued by the Department of Wildlife and Fisheries.

B. Live game fish fingerlings sold from an approved fish farm shall be subject to all applicable statute and rule limitations, if any.

C. A fish farmer raising and selling live game fish fingerlings must maintain a record of all sales and shipments of fish and these records must be open for inspection by designated employees of the Department of Wildlife and Fisheries.

D. Game fish farmers transporting game fish fingerlings for sale must possess a bill of lading which shall accompany each shipment showing species of fish contained in the shipment, number, the origin of the payload, destination of the shipment, the name of the consignee and consignor, and the grower's name and domesticated aquatic organism license number.

E. All trucks transporting game fish fingerlings for sale must have the words "GAME FISH FARMER" prominently displayed with a minimum of 3-inch block letters.

F. Fish farmers holding a domesticated aquatic organism license are not granted any fishing privileges greater than those stated in title 56 of the *Louisiana Revised Statutes* and must abide by all statutes pertaining to domestic fish farming.

G. The department shall have the authority to cancel sales or to confiscate and destroy shipments of game fish fingerlings that are determined by department personnel to

have fish diseases or parasites that would endanger native fish populations. Game fish farmers must agree to allow department personnel or a department approved contractor to conduct unannounced random inspections of the transport vehicle. Those individuals may remove or take fish samples for analysis and/or inspection.

H. Genetic purity shall be maintained and game fish fingerlings produced shall not be genetically manipulated or altered in any way without prior approval of the department, except for hybrid crosses within the genera of *Lepomis*, *Pomoxis*, *Micropterus*, or *Morone*, or fish produced with polyploid chromosomes.

I. The secretary may revoke any or all licenses issued for the raising and selling of game fish fingerlings if the licensee fails to adhere to any of the above regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327 (A)(2), R.S. 56:411, and R.S. 56:412.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:2155 (November 1998), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 39:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the Notice of Intent to Mr. Randy Myers, Biologist DCL-B, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, January 2, 2014.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald Graham
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Game Fish Fingerling Aquaculture

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change eliminates the requirement for a special game fish permit among fish farmers who raise and sell fingerlings of game fish species (bass, bream, and crappie). The proposed rule change also eliminates a related requirement to file an annual report regarding game fish production with the Louisiana Department of Wildlife and Fisheries. A minor savings to the Department of Wildlife and Fisheries will occur

as a result of not issuing the permits and processing related reports associated with implementation of the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units because there is no fee associated with the permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Fish farmers who raise and sell game fish (bass, bream, and crappie) would benefit through a reduction in the cost of regulatory compliance. The Louisiana Department of Wildlife and Fisheries has issued an annual average of 20 special game fish permits over the past three years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1309#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Old River Lake Permits (LAC 76:VII.131)

The Wildlife and Fisheries Commission does hereby give notice of its intent to adopt the following changes to remove the requirement for a special permit for commercial fish seining on Old River Lake, Concordia Parish.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§131. Prohibits Fish Seining in Designated Places Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:281 (April 1989), repealed LR 39:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the Notice of Intent to Mr. Randy Myers, Biologist DCL-B, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, January 2, 2014.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of

the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald Graham
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Old River Lake Permits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change would rescind a ban on seine nets without a permit while fishing commercially in the Louisiana portion of the Old River Lake near Vidalia and Deer Park in Concordia Parish. A minor savings to the Department of Wildlife and Fisheries will occur as a result of not issuing the permits under the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units because there is no fee associated with the permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Commercial fishermen who wish to engage in fishing with seine nets in the Louisiana portion of the Old River Lake near Vidalia and Deer Park in Concordia Parish would benefit from a reduction in the cost of regulatory compliance. This reduction in regulatory compliance costs may result in a minor increase in commercial fishing activity, harvests, and revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1309#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries
Wildlife and Fisheries Commission**

Removal of Abandoned Crab Traps (LAC 76:III.367)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:322(N), that the Wildlife and Fisheries Commission proposes to amend Chapter 7 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register*, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2;

Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 39, Number 1). The Wildlife and Fisheries Commission now proposes to amend the provisions to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§367. Removal of Abandoned Crab Traps**

A. The use of crab traps shall be prohibited from 6 a.m., February 15, 2014 through 6 a.m. February 24, 2014 within that portion of Terrebonne Parish as described below:

1. From a point originating at the intersection of the eastern shoreline of Bayou Dularge and the southern shoreline of Falgout Canal; thence westward along the southern shoreline of Falgout Canal to Lake Decade; thence westward and then southward along the southern and western shoreline of Lake Decade to the mouth of Bayou Decade; thence southwesterly along the southern shoreline of Bayou Decade to Lost Lake; thence westward and then southward along the northern shoreline of Lost Lake to the mouth of Rice Bayou; thence southward along the western shoreline of Rice Bayou to Blue Hammock Bayou; thence westward along the northern shore of Blue Hammock Bayou to Four League Bay; thence southward along the eastern shoreline of Four League Bay to the mouth of Oyster Bayou; thence southward along the eastern shoreline of Oyster Bayou to a point along the inside-outside shrimp line as defined in R.S. 56:495(A); thence eastward along the inside-outside shrimp line to the eastern shoreline of Bayou Grand Caillou; thence northward along the eastern shoreline of Bayou Grand Caillou to 29 degrees 15 minutes 00 seconds north latitude; thence westward across Bayou Grand Caillou to the northern shoreline of the Tennessee Gas Pipeline canal; thence westward along the northern shoreline of the Tennessee Gas Pipeline canal to the eastern shore of Bayou Dularge; thence northward along the eastern shoreline of Bayou Dularge and terminating at the intersection of the eastern shoreline of Bayou Dularge and the southern shoreline of Falgout Canal.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed areas during the closure periods shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January, 2010), LR 38:146 (January, 2012), LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing waiver service recipients within active duty military families to return to Louisiana and have preferential assignment to available waiver opportunities.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B.

Public Comments

Interested persons may submit written comments relative to the proposed rule to Mr. Martin Bourgeois, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, Box 189, Bourg, LA 70343, or via e-mail to mbourgeois@wlf.la.gov prior to October 11, 2013.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald "Ronny" Graham
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Removal of Abandoned Crab Traps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no impact on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change would prohibit the use of crab traps within a portion of Terrebonne Parish from 6:00 a.m., February 15, 2014 through 6:00 a.m., February 24, 2014. Crab fishermen who utilize the area proposed for closure will incur lost fishing time during the designated period and be subject to additional costs from having to temporarily remove their traps. These impacted crab fishermen will have either to move their traps to adjacent open fishing areas or to remove their traps from the water for the duration of the closure.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closure, resulting in a slightly higher price for fresh crabs in the short term. However, the crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

Recreational saltwater anglers, commercial fishermen and individuals who operate vessels within the designated area may realize minimal positive benefits from the removal of abandoned crab traps, since encounters with abandoned traps often result in lost fishing time and damage to the vessel's lower unit and/or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch that become trapped and die in these traps. Thus, the removal of abandoned crab traps should provide improved fishing and reduced fishing costs.

The overall impact of the proposed area closure is anticipated to be minimal, since the duration of the closure is only for nine days during the lowest harvest time of the year, and adjacent waters will remain open for crab fishermen to continue to fish.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since waters adjacent to the closure area will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps, effects on competition and employment are expected to be negligible.

Bryan McClinton
Undersecretary
1309#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Scuba Season—Toledo Bend (LAC 76:VII.113)

The Wildlife and Fisheries Commission does hereby give notice of its intent to adopt the following changes to repeal the scuba diving game fish season on Toledo Bend.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§113. Scuba Diving Game Fish Season

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:320(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 11:706 (July 1985), amended LR 15:393 (May 1989), repealed LR 39:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the Notice of Intent to Mr. Randy Myers, Biologist DCL-B, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, January 2, 2014.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald Graham
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scuba Season—Toledo Bend

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change eliminates a four-month special Scuba Diving Game Fish Season (from June 1 to September 30) for bream and crappie in the Louisiana portion of the Toledo Bend Reservoir south of the Highway 6 Bridge. It also removes the related requirement of a special permit and monthly reports of game fish taken by spearfishing while scuba diving in the reservoir. A minor savings to the Department of Wildlife and Fisheries will occur as a result of not issuing the permits and processing related reports associated with implementation of the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units because there is no fee associated with the Scuba Diving Game Fish Permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A modest number of scuba divers who fish for bream and crappie in the Louisiana portion of the Toledo Bend Reservoir south of the Highway 6 bridge will be negatively affected by the proposed rule change which bans the harvest of those species while scuba diving. The number of people holding permits to harvest bream and crappie in this portion of Toledo Bend was 11 in 2007, six in 2008, 11 in 2009, eight in 2010, 14 in 2011, and five in 2012. The number of permit holders as of August 2013 was four.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1309#045

Evan Basseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Special Permits—Lake Bruin (LAC 76:VII.125)

The Wildlife and Fisheries Commission does hereby give notice of its intent to adopt the following changes to remove the requirement for a special permit for commercial fishing on Lake Bruin in Tensas Parish.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§125. Lake Bruin

A. The Wildlife and Fisheries Commission hereby establishes a special recurring commercial fishing season, allowing the use of certain nets and slat traps in Lake Bruin, Tensas Parish, Louisiana. The season will commence each year at sunrise on November 1 and close at sunset on the last day of February the following year.

1. Commercial fishing with certain nets and slat traps will be allowed on Lake Bruin only during the above described special season and only by licensed commercial fishermen the use of nets in Lake Bruin will be limited to gill and trammel nets greater than or having at least a minimum mesh of 3 1/2-inch bar and 7-inch stretch.

2. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured may be removed during daylight hours only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22, R.S. 56:326.3 and R.S. 56:402.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 13:502 (September 1987), amended LR 18:294 (March 1992), LR 39:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the Notice of Intent to Mr. Randy Myers, Biologist DCL-B, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, January 2, 2014.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the

filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald Graham
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Special Permits—Lake Bruin

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change would rescind a ban on commercial fishing without a permit in Lake Bruin in Tensas Parish. It would also eliminate a related requirement to file monthly reports of commercial fish harvests from Lake Bruin with the Louisiana Department of Wildlife and Fisheries. A minor savings to the Department of Wildlife and Fisheries will occur as a result of not issuing the permits and processing related reports associated with implementation of the proposed rule change.

In addition, the proposed rule change would establish a special recurring commercial fishing season on Lake Bruin allowing the use of certain nests and slat traps from the first day of November to the last day of February.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units because there is no fee associated with the permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change eliminates a requirement for a permit to fish commercially in Lake Bruin in Tensas Parish during an established four-month season and instead establishes a four-month season for fishing in the water body without a special permit. Commercial fishermen in the vicinity of Lake Bruin would benefit from a reduction in the cost of regulatory compliance. This reduction in regulatory compliance costs may result in a minor increase in commercial fishing activity, harvests, and revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1309#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences**

Annual Quarantine Listing
Plant Protection and Quarantine Supplement

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., R.S. 3:1652. R.S. 3:1732 and LAC 7:XV:107, 109 the annual quarantine listing for 2013 is being supplemented to remove the following quarantines and locations.

Supplement to Annual Quarantine Listing—2013

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) ...

(b) In the State of Louisiana:

1). ...

2) The properties located at the following coordinates: 32.457650, -91.572820; and any properties within a 300-yard radius of these coordinates have been removed from the Sweetpotato Weevil Quarantine Listing.

Date: September 5, 2013

Mike Strain DVM
Commissioner

1309#026

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Engineering Services**

Standards for Water Works Construction, Operation, and Maintenance Committee—2013 Meeting Dates

The Office of Public Health, in accordance with Act 292 of the 2013 Legislative Session, gives notice that the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee has scheduled the following meetings for 2013:

September 25, 2013, 1 p.m. to 4 p.m.

October 29, 2013, 1 p.m. to 4 p.m.

November 19, 2013, 9 a.m. to Noon

December 17, 2013, 1 p.m. to 4 p.m.

All meetings will be held in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana. Persons attending the meeting may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. Sixth and N. Fifth / North and Main Streets (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Inquiries regarding this meeting should be addressed to Jake Causey, Chief Engineer, Engineering Services Section, Office of Public

Health, Mail Bin # 3, P.O. Box 4489, Baton Rouge, LA 70821-4489; emailed to jake.causey@la.gov; or faxed to (225) 342-7303.

Kathy Kliebert
Secretary

1309#043

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Underwater Obstruction Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 23 claims in the amount of \$100,779.48 were received for payment during the period August 1, 2013 - August 31, 2013

There were 23 paid and 0 denied.

Latitude/Longitude Coordinates, In Degree Decimal Minutes, of reported underwater obstructions are:

28 58.463	89 11.421	Plaquemines
29 07.694	90 55.224	Terrebonne
29 08.350	90 06.572	Jefferson
29 08.881	90 35.313	Terrebonne
29 10.116	90 05.316	Jefferson
29 13.732	89 58.093	Jefferson
29 15.989	89 56.377	Jefferson
29 16.032	89 56.876	Jefferson
29 16.416	89 56.226	Jefferson
29 24.770	89 54.470	Plaquemines
29 29.288	89 27.494	Plaquemines
29 31.877	91 41.452	Iberia
29 33.833	89 52.891	Plaquemines
29 35.216	89 30.552	Plaquemines
29 35.478	89 31.118	Plaquemines
29 35.890	89 33.036	Plaquemines
29 45.331	89 16.199	Saint Bernard
29 48.470	90 03.240	Jefferson
29 49.778	93 21.530	Cameron
29 50.095	89 33.794	Saint Bernard
29 55.945	89 32.375	Saint Bernard
29 56.720	90 35.123	St John the Baptist
30 03.094	89 46.634	Orleans

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Stephen Chustz
Secretary

1309#032

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